

EXHIBIT 1

ROBBINS GELLER RUDMAN
& DOWD LLP
SHAWN A. WILLIAMS (213113)
Post Montgomery Center
One Montgomery Street, Suite 1800
San Francisco, CA 94104
Telephone: 415/288-4545
415/288-4534 (fax)
shawnw@rgrdlaw.com
– and –
SPENCER A. BURKHOLZ (147029)
LAURIE L. LARGENT (153493)
LAURA ANDRACCHIO (187773)
SCOTT H. SAHAM (188355)
ASHLEY M. KELLY (281597)
TING H. LIU (307747)
STEPHEN JOHNSON (347822)
655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)
spenceb@rgrdlaw.com
llargent@rgrdlaw.com
landracchio@rgrdlaw.com
scottss@rgrdlaw.com
ashleyk@rgrdlaw.com
tliu@rgrdlaw.com
sjohnson@rgrdlaw.com
Lead Counsel for Lead Plaintiff

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

WILLIAM LAMARTINA, Individually and on)
Behalf of All Others Similarly Situated,)

Plaintiff,)

vs.)

VMWARE, INC., et al.,)

Defendants.)

Case No. 5:20-cv-02182-EJD (VKD)

CLASS ACTION

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (the “Stipulation”) is made and entered into by and between lead plaintiff Eastern Atlantic States Carpenters Pension Fund (“Lead Plaintiff” or the “Fund”), on behalf of itself and the Class (defined in ¶1.4, *infra*), on the one hand, and defendants VMware LLC (formerly VMware, Inc.) (“VMware” or the “Company”) and Patrick P. Gelsinger and Zane Rowe (“Individual Defendants” and together with VMware, “Defendants”) on the other hand, by and through their counsel of record in the above-captioned litigation (the “Action”) pending in the United States District Court for the Northern District of California (the “Court”).¹ This Stipulation is intended by the Settling Parties to fully, finally, and forever compromise, resolve, discharge, dismiss with prejudice, and release the Released Claims, upon and subject to the terms and conditions hereof, and subject to the approval of the Court.

All words or terms used herein that are capitalized shall have the meanings ascribed to those words or terms as set forth herein and in Section IV.1., below, entitled “Definitions.”

I. THE LITIGATION

The initial complaint in this Action was filed in this Court on March 31, 2020. ECF 1. On June 1, 2020, the Fund moved for appointment as Lead Plaintiff and for approval of its selection of counsel. ECF 17. On July 20, 2020, the Court appointed the Fund as Lead Plaintiff, and Robbins Geller Rudman & Dowd LLP (“Robbins Geller”) as Lead Counsel.² ECF 45.

Lead Plaintiff filed a Consolidated Complaint for Violations of the Federal Securities Laws (the “Amended Complaint”) on September 18, 2020 (ECF 50), alleging violations of §§10(b) and 20(a) of the Securities Exchange Act of 1934 (“Exchange Act”) against all Defendants, and alleging a violation of §20A against Defendant Gelsinger. Defendants filed their motion to dismiss the Amended Complaint on November 17, 2020. ECF 51. On September 10, 2021, the Court issued an Order Granting in Part and Denying in Part Motion to Dismiss with Leave to Amend. ECF 60.

¹ VMware, Inc. was acquired by Broadcom, Inc. (“Broadcom”) on November 22, 2023.

² At the time the Fund moved for appointment as Lead Plaintiff, it was known as the Northeast Carpenters Pension Fund.

1 On October 8, 2021, Lead Plaintiff filed the Second Amended Consolidated Complaint for
2 Violations of the Federal Securities Laws (the “Second Amended Complaint”) (ECF 63), and again,
3 Defendants moved for dismissal (ECF 64). Lead Plaintiff filed its opposition to that motion to
4 dismiss on December 3, 2021. ECF 66. On September 12, 2022, while Defendants’ motion to
5 dismiss the Second Amended Complaint was pending, the U.S. Securities and Exchange
6 Commission issued an Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the
7 Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings,
8 and Imposing a Cease-and-Desist Order (the “SEC Order”) against Defendant VMware. *See* ECF
9 77. The Court thereafter permitted the Parties to provide additional briefing on Defendants’ motion
10 to dismiss concerning the effect of the SEC Order on the allegations in the Second Amended
11 Complaint. ECF 81.

12 On March 14, 2023, Plaintiff filed a Supplemental Memorandum in Further Opposition to
13 Defendants’ Motion to Dismiss to address the effect of the SEC Order on Lead Plaintiff’s
14 allegations, and attached a redline to the Second Amended Complaint. ECF 82. Defendants filed a
15 response on March 21, 2023. After the supplemental briefing the Court held that Lead Plaintiff
16 adequately pled its §§20(a) and 20A claims, as well as certain of its §10(b) and Rule 10b-5 claims,
17 and ordered Lead Plaintiff to file the redlined Second Amended Complaint as a Third Amended
18 Consolidated Complaint for Violations of the Federal Securities Laws (“Third Amended
19 Complaint”). *See* Order Granting in Part and Denying in Part Motion to Dismiss Second Amended
20 Consolidated Complaint. ECF 84. The Third Amended Complaint was filed on April 6, 2024, and
21 alleges certain Class Period misrepresentations and omissions concerning the Company’s backlog
22 and revenue. ECF 85. On April 20, 2023, Defendants filed their Answer to the Third Amended
23 Complaint and therein pleaded fourteen (14) affirmative defenses and other defenses to Plaintiff’s
24 claims. ECF 86.

25 The Parties thereafter began formal fact discovery, which culminated in the exchange and
26 review of more than 100,000 documents (encompassing nearly 650,000 pages) from over a dozen
27 custodians associated with VMware and the production of nearly 25,000 documents (over 175,000
28 pages) from 30 third parties subpoenaed to produce documents. Lead Plaintiff took ten (10) fact

1 witness depositions, and propounded dozens of Requests for Production of Documents, Requests for
2 Admission, and Interrogatories on Defendants. Lead Plaintiff also produced documents in response
3 to Defendants' requests.

4 On January 16, 2024, Lead Plaintiff moved to certify the Class. ECF 132. Defendants did
5 not oppose the motion. ECF 154. Following its June 27, 2024 hearing, on July 2, 2024, the Court
6 issued its Order Granting Motion for Class Certification and appointing Lead Plaintiff as Class
7 Representative and appointing Robbins Geller as Class Counsel. ECF 171. The Class Members are
8 persons who purchased the publicly traded Class A common stock of VMware during the Class
9 Period, and who were damaged thereby. At the time the Settlement was achieved, the Parties were
10 in the process of preparing to exchange expert reports on various issues. A trial setting conference
11 was scheduled to occur on October 31, 2024.

12 During the course of the Action, the Parties engaged a neutral, third party mediator, the Hon.
13 Layn R. Phillips (Ret.) of Phillips ADR, to aid in settlement negotiations. Judge Phillips has
14 extensive experience mediating complex class action litigations such as this Action. The Parties
15 engaged in two in-person mediation sessions and numerous teleconferences with Judge Phillips in an
16 effort to resolve the Action. The Parties also exchanged mediation briefs ahead of their first in-
17 person mediation session, setting forth their respective arguments concerning liability and damages
18 and respective views of the merits of the Action. Though the Parties' initial mediation session on
19 March 1, 2024 was unsuccessful in resolving the Action, the Parties continued to have telephonic
20 and email exchanges with Judge Phillips regarding a potential resolution. The Parties and the Court
21 thereafter agreed to a stay of the Action to allow settlement discussions to continue in a good-faith
22 attempt to resolve the Action. ECF 174, 176, 178, 180.

23 On July 19, 2024, the Parties attended a remote mediation session with Judge Phillips. That
24 mediation session paved the way for additional discussions that day between the Parties, resulting in
25 an agreement in principle to settle the Action for \$102,500,000.00, subject to the negotiation of the
26 terms of a stipulation of settlement and approval by the Court. This Stipulation (together with the
27 Exhibits hereto) reflects the final and binding agreement of the Parties.

II. LEAD PLAINTIFF'S CLAIMS AND BENEFITS OF SETTLEMENT

Lead Plaintiff believes that the claims asserted in the Action have merit and that the evidence and record developed to date support the claims asserted. Nonetheless, Lead Plaintiff and Lead Counsel recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Action through trial and any possible appeals. Lead Plaintiff and Lead Counsel have also taken into account the uncertain outcome and risk of any litigation, especially in complex actions such as this Action, as well as the difficulties and delays inherent in such litigation. Lead Counsel is mindful of the inherent problems of proof and the possible defenses to the claims alleged in the Action. Lead Plaintiff and Lead Counsel believe that the Settlement set forth in this Stipulation confers substantial benefits upon the Class in light of the circumstances present. Based on their evaluation, Lead Plaintiff and Lead Counsel have determined that the Settlement set forth in this Stipulation is in the best interests of the Class.

III. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY

Defendants have denied, and continue to deny, that they have committed any act or omission giving rise to any liability or violation of law. Specifically, Defendants expressly have denied, and continue to deny, each and all of the claims alleged by Lead Plaintiff in the Action, along with all the charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Action. Defendants also have denied, and continue to deny, among other allegations, the allegations that Lead Plaintiff or the Class have suffered any damages, or that Lead Plaintiff or the Class was harmed by the conduct alleged in the Action or that could have been alleged as part of the Action. Defendants have asserted, and continue to assert, that the conduct was at all time proper and in compliance with all applicable provisions of law, and believe the evidence developed to date supports their position that they acted properly at all time and that the Action is without merit. In addition, Defendants maintain that they have meritorious defenses to all claims alleged in the Action.

As set forth below, neither the Settlement nor any of the terms of this Stipulation shall constitute an admission or finding of any fault, liability, wrongdoing, or damage whatsoever or any infirmity in the defenses that Defendants have, or could have, asserted. Defendants are entering into

1 this Stipulation solely to eliminate the burden and expense of further litigation. Defendants have
 2 determined that it is desirable and beneficial to them that the Action be settled in the manner and
 3 upon the terms and conditions set forth in this Stipulation.

4 **IV. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT**

5 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Lead
 6 Plaintiff (for itself and members of the Class), on the one hand, and Defendants, on the other hand,
 7 by and through their respective counsel of record, that, subject to the approval of the Court, pursuant
 8 to Rule 23(e) of the Federal Rules of Civil Procedure, in consideration of the benefits flowing to the
 9 Parties from the Settlement set forth herein, the Released Claims and the Released Defendants'
 10 Claims shall be finally and fully compromised, settled, and released, and the Action shall be
 11 dismissed with prejudice, with each party to bear its own fees, costs, and expenses (except as
 12 expressly provided by the Court), as to Plaintiff and Defendants, upon and subject to the terms and
 13 conditions of the Stipulation, as follows.

14 **1. Definitions**

15 As used in the Stipulation the following terms have the meanings specified below:

16 1.1 "Action" means *William Lamartina v. VMware, Inc., et al.*, No. 5:20-cv-02182-EJD
 17 (N.D. Cal.), and all prior proceedings therein.

18 1.2 "Authorized Claimant" means any member of the Class who submits a timely and
 19 valid Proof of Claim and Release and whose claim for recovery has been allowed pursuant to the
 20 terms of the Stipulation.

21 1.3 "Claims Administrator" means the firm of Gilardi & Co. LLC.

22 1.4 "Class" means all persons who purchased the publicly traded Class A common stock
 23 of VMware, Inc. during the period from August 24, 2018 through February 27, 2020, inclusive (the
 24 "Class Period"), and were damaged thereby. Excluded from the Class are Individual Defendants and
 25 their immediate family members. Also excluded from the Class are those persons and entities who
 26 timely and validly request exclusion from the Class pursuant to the Notice.

27 1.5 "Class Member" or "Class Members" means any Person(s) who falls within the
 28 definition of the Class as set forth in ¶1.4 of this Stipulation.

1 1.6 “Court” means the United States District Court for the Northern District of California.

2 1.7 “Effective Date” means the first date by which all of the events and conditions
3 specified in ¶7.1 of the Stipulation have been met and have occurred.

4 1.8 “Escrow Account” means the account controlled by the Escrow Agent.

5 1.9 “Escrow Agent” means Robbins Geller Rudman & Dowd LLP or its successor(s).

6 1.10 “Final” means when the last of the following with respect to the Judgment approving
7 this Stipulation, substantially in the form of Exhibit B attached hereto, shall occur: (i) the expiration
8 of the time to file a motion to alter or amend the Judgment under Federal Rule of Civil Procedure
9 59(e) without any such motion having been filed; (ii) the time in which to appeal the Judgment has
10 passed without any appeal having been taken; and (iii) if a motion to alter or amend is filed or if an
11 appeal is taken, immediately after the determination of that motion or appeal so that it is no longer
12 subject to any further judicial review or appeal whatsoever, whether by reason of affirmance by a
13 court of last resort, lapse of time, voluntary dismissal of the appeal or otherwise in such manner as to
14 permit the consummation of the Settlement, substantially in accordance with the terms and
15 conditions of this Stipulation. For purposes of this paragraph, an “appeal” shall include any motion
16 for reconsideration or rehearing or petition for a writ of certiorari or other writ that may be filed in
17 connection with approval or disapproval of this Settlement. Any appeal or proceeding seeking
18 subsequent judicial review pertaining solely to an order issued with respect to: (i) attorneys’ fees,
19 costs, or expenses or an award to Lead Plaintiff; (ii) the Plan of Allocation (as submitted or
20 subsequently modified); or (iii) the procedures for determining Authorized Claimants’ recognized
21 claims, shall not in any way delay, affect, or preclude the time set forth above for the Judgment to
22 become Final, or otherwise preclude the Judgment from becoming Final.

23 1.11 “Judgment” means the judgment and order of dismissal with prejudice to be rendered
24 by the Court upon approval of the Settlement, substantially in the form attached hereto as Exhibit B.

25 1.12 “Lead Counsel” means Robbins Geller Rudman & Dowd LLP.

26 1.13 “Lead Plaintiff” means Eastern Atlantic States Carpenters Pension Fund.

27 1.14 “Memorandum of Understanding” means the Memorandum of Understanding
28 executed by the Parties on September 4, 2024.

1 1.15 “Net Settlement Fund” means the portion of the Settlement Fund that shall be
2 distributed to Authorized Claimants as allowed by the Stipulation, the Plan of Allocation, or the
3 Court, after provision for the amounts set forth in ¶5.4(a)-(c) of this Stipulation.

4 1.16 “Parties” means Plaintiff and Defendants. “Party” means one of the Parties.

5 1.17 “Person” means an individual, corporation, partnership, limited partnership,
6 association, joint stock company, estate, legal representative, trust, unincorporated association,
7 government or any political subdivision or agency thereof, and any business or legal entity and his,
8 her, or its spouses, heirs, predecessors, successors, representatives, or assignees.

9 1.18 “Plaintiff” means Eastern Atlantic States Carpenters Pension Fund.

10 1.19 “Plan of Allocation” means a plan or formula of allocation of the Net Settlement
11 Fund whereby the Settlement Fund shall be distributed to Authorized Claimants after payment of the
12 amounts set forth in ¶5.4(a)-(c) of this Stipulation. Any Plan of Allocation is not part of the
13 Stipulation and the Released Parties shall have no responsibility or liability with respect to the Plan
14 of Allocation.

15 1.20 “Proof of Claim and Release” means the Proof of Claim and Release form for
16 submitting a claim, which, subject to approval of the Court, shall be substantially in the form
17 attached hereto as Exhibit A-2. A Class Member must complete and submit the Proof of Claim and
18 Release should that Class Member seek to share in a distribution of the Net Settlement Fund.

19 1.21 “Released Claims” means all claims (including, but not limited to, Unknown Claims),
20 demands, losses, rights, and causes of action of any nature whatsoever, that have been or could have
21 been asserted in the Action or could in the future be asserted in any forum, whether foreign or
22 domestic, whether arising under federal, state, common or foreign law, by Plaintiff, any member of
23 the Class, or their successors, assigns, executors, administrators, representatives, attorneys and
24 agents, whether brought directly or indirectly against any of the Released Defendants Parties, which
25 arise out of, are based on, or relate in any way to, directly or indirectly: (i) any of the allegations,
26 acts, transactions, facts, events, matters, occurrences, representations or omissions involved, set
27 forth, alleged or referred to, in the Action, or which could have been alleged in the Action; and (ii)
28 the purchase, acquisition, transfer, holding, ownership, disposition or sale of VMware, Inc. common

1 stock, by any members of the Class during the Class Period. For the avoidance of doubt, “Released
2 Claims” does not include claims to enforce the Settlement.

3 1.22 “Released Defendants Parties” means: (i) each and all of the Defendants and
4 Broadcom, Inc.; (ii) each of their respective family members (for individuals) and past, present, and
5 future direct and indirect parent entities, subsidiaries, related entities, and affiliates; and (iii) for any
6 of the entities listed in parts (i) and (ii), their respective past and present general partners, limited
7 partners, principals, shareholders, investors (however denominated), joint ventures, members,
8 officers, directors, managers, managing directors, supervisors, employees, contractors, consultants,
9 auditors, accountants, financial advisors, professional advisors, investment bankers, representatives,
10 insurers, trustees, trustors, agents, attorneys, professionals, predecessors, successors, assigns, heirs,
11 executors, administrators, and any controlling person thereof.

12 1.23 “Released Defendants’ Claims” means all claims (including, but not limited to,
13 Unknown Claims), demands, losses, rights, and causes of action of any nature whatsoever, that have
14 been or could have been asserted in the Action by the Released Defendants Parties or any of them
15 against any of the Released Plaintiff Parties, which arise out or relate in any way to the institution,
16 prosecution, assertion, settlement, or resolution of the Action (except for claims to enforce the
17 Settlement).

18 1.24 “Released Parties” means the Released Defendants Parties and the Released Plaintiff
19 Parties.

20 1.25 “Released Plaintiff Parties” means: (i) each and all of the plaintiffs, consisting of
21 Plaintiff and members of the Class; (ii) each of their respective family members, and their respective
22 past, present, and future general partners, limited partners, principals, shareholders, investors
23 (however denominated), joint ventures, members, officers, directors, managers, managing directors,
24 supervisors, employees, contractors, consultants, auditors, accountants, financial advisors,
25 professional advisors, investment bankers, representatives, insurers, trustees, trustors, agents,
26 attorneys, professionals, predecessors, successors, assigns, heirs, executors, administrators, and any
27 controlling person thereof; and (iii) Lead Counsel and other counsel representing Plaintiff and the
28 Class.

1 1.26 “Settlement” means the resolution of the Action in accordance with the terms and
2 provisions of the Stipulation.

3 1.27 “Settlement Amount” means the principal amount of One Hundred Two Million Five
4 Hundred Thousand Dollars (\$102,500,000.00), to be paid pursuant to ¶2.1 of this Stipulation.

5 1.28 “Settlement Fund” means the Settlement Amount, together with all interest and
6 income earned thereon after being transferred to an account controlled by the Escrow Agent, and
7 which may be reduced by payments or deductions as provided for herein or by Court order.

8 1.29 “Settlement Hearing” means the hearing to be held by the Court to determine
9 whether: (i) the Settlement is fair, reasonable, and adequate and should be approved; (ii) the Plan of
10 Allocation is fair, reasonable, and adequate and should be approved; and (iii) Lead Counsel’s request
11 for an award of attorneys’ fees and expenses and an award to Lead Plaintiff should be approved.

12 1.30 “Settling Parties” means Defendants and Lead Plaintiff, on behalf of itself and Class
13 Members.

14 1.31 “Summary Notice” means the Summary Notice for publication, which shall be
15 substantially in the form attached hereto as Exhibit A-3.

16 1.32 “Tax Expenses” means expenses and costs incurred in connection with the calculation
17 and payment of taxes or the preparation of tax returns and related documents, including, without
18 limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs relating to
19 filing (or failing to file) the returns described in ¶2.8.

20 1.33 “Taxes” means all taxes of any kind (including any estimated taxes, interest, or
21 penalties) arising with respect to any income earned by the Settlement Fund as described in ¶2.8.

22 1.34 “Unknown Claims” means any and all Released Claims that Lead Plaintiff or any
23 other Class Member does not know or suspect to exist in his, her, or its favor at the time of the
24 release of the Released Defendants Parties, and any and all Released Defendants’ Claims that any
25 Defendant does not know or suspect to exist in his, her or its favor, which if known by him, her, or
26 it, might have affected his, her, or its decision(s) to enter into this Settlement, execute this
27 Stipulation, and agree to all the various releases set forth herein, or might have affected his, her, or
28 its decision(s) not to object to this Settlement or not exclude himself, herself, or itself from the Class.

1 Unknown Claims include, without limitation, those claims in which some or all of the facts
2 composing the claim may be unsuspected, undisclosed, concealed, or hidden. With respect to any
3 and all Released Claims and Released Defendants' Claims, the Settling Parties stipulate and agree
4 that, upon the Effective Date, Lead Plaintiff and Class Members (as regards the Released Claims)
5 and the Defendants (as regards the Released Defendants' Claims) shall expressly waive and
6 relinquish, and each Class Member shall be deemed to have and by operation of law and of the
7 Judgment shall have, expressly waived and relinquished, to the fullest extent permitted by law, any
8 and all provisions, rights, and benefits conferred by California Civil Code §1542, or any law of any
9 state or territory of the United States, or principle of common law or of international or foreign law,
10 which is similar, comparable, or equivalent to Cal. Civ. Code §1542, which provides:

11 A general release does not extend to claims that the creditor or releasing party
12 does not know or suspect to exist in his or her favor at the time of executing the
13 release and that, if known by him or her, would have materially affected his or her
14 settlement with the debtor or released party.

15 The Settling Parties may hereafter discover facts in addition to or different from those which he, she,
16 or it now knows or believes to be true with respect to the subject matter of the Released Claims or
17 Released Defendants' Claims, but such person or entity shall expressly settle and release, and each
18 Member of the Class, upon the Effective Date, shall be deemed to have, and by operation of the
19 Judgment shall have, fully, finally, and forever settled and released any and all Released Claims and
20 Released Defendants' Claims, known or unknown, suspected or unsuspected, contingent or non-
21 contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon
22 any theory of law or equity now existing or coming into existence in the future, including, but not
23 limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty,
24 law or rule, without regard to the subsequent discovery or existence of such different or additional
25 facts. Lead Plaintiff and Defendants acknowledge and the members of the Class by operation of the
26 Judgment shall be deemed to have acknowledged that the waivers contained in this paragraph, and
27 the inclusion of "Unknown Claims" in the definition of Released Claims and Released Defendants'
28 Claims, were separately bargained for and are material elements of the Settlement.

1 **2. The Settlement**

2 **a. The Settlement Fund**

3 2.1 The Settlement Amount shall be paid as follows:

4 (a) VMware LLC shall deposit Ten Million Dollars (\$10,000,000) into an
5 interest-bearing escrow account controlled by Robbins Geller Rudman & Dowd LLP, Lead Counsel,
6 on or before October 7, 2024.

7 (b) Defendants shall deposit or cause to be deposited Ninety-Two Million Five
8 Hundred Thousand Dollars (\$92,500,000) into an interest-bearing escrow account controlled by
9 Lead Counsel within fourteen (14) calendar days after entry of a preliminary approval order by the
10 Court.

11 These funds, together with any interest and income earned thereon once transferred, shall constitute
12 the Settlement Fund. Such amount is paid as consideration for full and complete settlement of all the
13 Released Claims. Other than the obligation of Defendants to pay or cause to be paid the Settlement
14 Amount into the Settlement Fund, Defendants shall have no obligation to make any other payment
15 into the Settlement Fund pursuant to this Stipulation.

16 2.2 If the entire Settlement Amount is not deposited into the Escrow Account in
17 accordance with ¶2.1, Lead Counsel may terminate the Settlement, but only if: (i) Defendants have
18 received from Lead Counsel written notice of Lead Counsel's intention to terminate the Settlement;
19 and (ii) the entire Settlement Amount is not transferred to the Escrow Account within three (3)
20 business days after Lead Counsel has provided such written notice.

21 **b. The Escrow Agent**

22 2.3 The Escrow Agent shall invest the Settlement Fund deposited pursuant to ¶2.1 hereof
23 in instruments backed by the full faith and credit of the United States Government or fully insured by
24 the United States Government or an agency thereof, or in money funds holding only instruments
25 backed by the full faith and credit of the United States Government, and shall reinvest the proceeds
26 of these instruments as they mature in similar instruments at their then-current market rates. All
27 costs and risks related to the investment of the Settlement Fund shall be borne entirely by the
28 Settlement Fund, and the Released Defendants Parties shall have no responsibility for, interest in, or

1 liability whatsoever with respect to the investment decisions or the actions of the Escrow Agent, or
2 any transaction executed by the Escrow Agent.

3 2.4 The Escrow Agent shall not disburse the Settlement Fund except: (a) as provided in
4 the Stipulation; (b) by an order of the Court; or (c) with the written agreement of counsel for all of
5 the Settling Parties.

6 2.5 Subject to further order(s) and/or directions as may be made by the Court, or as
7 provided in the Stipulation, the Escrow Agent is authorized to execute such transactions as are
8 provided for under the terms of the Stipulation. The Released Parties shall have no responsibility
9 for, interest in, or liability whatsoever with respect to, the actions of the Escrow Agent, or any
10 transaction executed by the Escrow Agent.

11 2.6 All funds held by the Escrow Agent shall be deemed and considered to be in *custodia*
12 *legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such
13 funds shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

14 2.7 Notwithstanding that the Effective Date of the Settlement has not yet occurred, Lead
15 Counsel, without further approval of Defendants or the Court, may pay from the Settlement Fund
16 reasonable costs of notice and settlement administration (“Notice and Administration Costs”)
17 associated with the administration of the Settlement. Such Notice and Administration Costs include,
18 without limitation: the cost of identifying and locating members of the Class, emailing (and mailing
19 where no email is available) the Postcard Notice and publishing notice (such amount shall include,
20 without limitation, the actual costs of publication, printing and mailing the Postcard Notice, and
21 reimbursement to nominee owners of the reasonable costs of identifying and forwarding notice to
22 their beneficial owners), soliciting Class claims, assisting with the filing of claims, administering and
23 distributing the Net Settlement Fund to Authorized Claimants, processing Proofs of Claim and
24 Release, and paying bank fees and costs, if any, and the administrative expenses incurred and fees
25 charged by the Claims Administrator in connection with providing notice and processing the
26 submitted claims. The Released Defendants Parties shall have no responsibility for or liability
27 whatsoever with respect to the Notice and Administration Costs, nor shall they have any
28 responsibility or liability whatsoever for any claims with respect thereto. After the Effective Date,

1 Lead Counsel may pay all further reasonable Notice and Administration Costs, regardless of amount,
2 without further order of the Court.

3 **c. Taxes**

4 2.8 (a) The Settling Parties agree to treat the Settlement Fund as being at all times a
5 “Qualified Settlement Fund” within the meaning of Treasury Regulation §1.468B-1. In addition, the
6 Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions
7 of this ¶2.8, including the “relation-back election” (as defined in Treasury Regulation §1.468B-1)
8 back to the earliest permitted date. Such elections shall be made in compliance with the procedures
9 and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to
10 timely and properly prepare and deliver the necessary documentation for signature by all necessary
11 parties, and thereafter to cause the appropriate filing to occur.

12 2.8 (b) For the purpose of §1.468B of the Internal Revenue Code of 1986, as
13 amended, and the regulations promulgated thereunder, the “administrator” shall be the Escrow
14 Agent. The Escrow Agent shall timely and properly file all informational and other tax returns
15 necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns
16 described in Treasury Regulation §1.468B-2(k)). Such returns (as well as the election described in
17 ¶2.8(a) hereof) shall be consistent with this ¶2.8 and in all events shall reflect that all Taxes
18 (including any estimated Taxes, interest, or penalties) on the income earned by the Settlement Fund
19 shall be paid out of the Settlement Fund as provided in ¶2.8(c) hereof.

20 2.8 (c) All: (i) Taxes (including any estimated Taxes, interest, or penalties) arising
21 with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that
22 may be imposed upon the Released Parties with respect to any income earned by the Settlement
23 Fund for any period during which the Settlement Fund does not qualify as a “Qualified Settlement
24 Fund” for federal or state income tax purposes; and (ii) Tax Expenses, including expenses and costs
25 incurred in connection with the operation and implementation of this ¶2.8 (including, without
26 limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and
27 expenses relating to filing (or failing to file) the returns described in this ¶2.8), shall be paid out of
28 the Settlement Fund. In no event shall the Released Parties or their counsel have any liability or

responsibility whatsoever for the Taxes or the Tax Expenses. The Settlement Fund shall indemnify and hold each of the Released Parties and their counsel harmless for Taxes and Tax Expenses (including, without limitation, Taxes payable by reason of any such indemnification). Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund without prior order from the Court, and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treasury Regulation §1.468B-2(1)(2)); Released Defendants Parties nor their counsel are responsible nor shall they have any liability therefor. The Settling Parties hereto agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this ¶2.8.

d. Termination of Settlement

2.9 In the event the Stipulation is not approved or is terminated, canceled, or fails to become effective for any reason, including, without limitation, in the event the Stipulation is not approved or the Judgment is reversed or vacated following any appeal taken therefrom, the Settlement Fund (including the interest earned thereon), less expenses actually incurred or due and owing for Notice and Administration Costs, Taxes or Tax Expenses, pursuant to ¶¶2.7 and 2.8, shall be refunded pursuant to ¶¶6.2 and 7.4, and written instructions from Defendants' counsel to the party, parties, or insurers that paid the Settlement within twenty-one (21) calendar days from the date of the notice from counsel for Defendants pursuant to ¶7.4.

3. Preliminary Approval Order and Settlement Hearing

3.1 Within thirty (30) calendar days of execution of the Stipulation, Lead Counsel shall submit the Stipulation together with its exhibits (the "Exhibits") to the Court and shall apply for entry of an order (the "Preliminary Approval Order"), requesting, *inter alia*, the preliminary approval of the Settlement set forth in the Stipulation and approval for the emailing (and mailing where no email is available) of the Postcard Notice and publication of the Summary Notice, in the

1 forms of Exhibits A-4 and A-3, respectively, attached hereto. The Postcard Notice shall direct Class
2 Members to the Settlement website to access the Notice of Pendency and Proposed Settlement of
3 Class Action (the “Notice”), substantially in the form contained in Exhibit A-1 attached hereto,
4 which shall contain the general terms of the Settlement set forth in the Stipulation, the proposed Plan
5 of Allocation, the general terms of the Fee and Expense Application, and the date of the Settlement
6 Hearing.

7 3.2 It shall be solely Lead Counsel’s responsibility to disseminate the Notice and
8 Summary Notice to the Class in accordance with this Stipulation and as ordered by the Court.
9 Members of the Class shall have no recourse as to the Released Parties with respect to any claims
10 they may have that arise from any failure of the notice process.

11 3.3 Lead Counsel shall request that, after notice is given to the Class, and not earlier than
12 ninety (90) calendar days after the later of the dates on which the appropriate Federal official and the
13 appropriate State officials are provided with notice pursuant to the Class Action Fairness Act of
14 2005, 28 U.S.C. §1715, *et seq.* (“CAFA”), the Court hold the Settlement Hearing and approve the
15 Settlement of the Action as set forth herein. At or after the Settlement Hearing, Lead Counsel also
16 shall request that the Court approve the proposed Plan of Allocation and the Fee and Expense
17 Application.

18 **4. Releases**

19 4.1 Upon the Effective Date, Lead Plaintiff and each of the Class Members (who have not
20 validly opted out of the Class), and their successors, assigns, executors, administrators,
21 representatives, attorneys, and agents in their capacity as such shall be deemed to have, and by
22 operation of law and of the Judgment shall have, fully, finally, and forever released, relinquished,
23 waived, and discharged against the Released Defendants Parties (whether or not such Class
24 Members execute and deliver the Proof of Claim and Release) any and all Released Claims
25 (including, without limitation, Unknown Claims).

26 4.2 Upon the Effective Date, Lead Plaintiff and each of the Class Members (who have not
27 validly opted out of the Class) and their successors, assigns, executors, administrators,
28 representatives, attorneys, and agents in their capacity as such shall be permanently barred and

1 enjoined from the institution, maintenance, prosecution, or enforcement against any Released
2 Defendants Parties, in any state or federal court or arbitral forum, or in the court of any foreign
3 jurisdiction, of any and all Released Claims (including, without limitation, Unknown Claims).

4 4.3 The Proof of Claim and Release to be executed by Class Members shall release all
5 Released Claims against the Released Defendants Parties and shall be substantially in the form
6 contained in Exhibit A-2 attached hereto; provided, however, that the failure of a Class Member to
7 submit such Proof of Claim and Release shall have no effect on the provisions of the foregoing ¶¶4.1
8 and 4.2, inclusive, which shall remain in full force and effect as to each of the Class Members (who
9 have not validly opted out of the Class) irrespective of any lack of submission of a Proof of Claim
10 and Release.

11 4.4 Upon the Effective Date, each of the Released Defendants Parties, shall have, fully,
12 finally, and forever released, relinquished, and discharged the Released Plaintiff Parties, including
13 Lead Counsel, from all Released Defendants' Claims (including, without limitation, Unknown
14 Claims). For the avoidance of doubt, the releases, relinquishments, and discharges provided by the
15 Released Defendants Parties in this Stipulation do not include the release, relinquishment, or
16 discharge of any claim or cause of action that any of the Released Defendants Parties may have
17 against an insurer for, arising out of or related to insurance coverage for, arising out of or related to
18 the Action or any related matter or proceeding, including any derivative or ERISA action based on
19 similar allegations.

20 **5. Administration and Calculation of Claims, Final Awards, and**
21 **Supervision and Distribution of the Settlement Fund**

22 5.1 The Claims Administrator, subject to such supervision and direction of the Court as
23 may be necessary or as circumstances may require, shall provide notice of the Settlement to the
24 Class, shall administer and calculate the claims submitted by Class Members, and shall oversee
25 distribution of the Net Settlement Fund to Authorized Claimants.

26 5.2 Within seven (7) calendar days after the Court enters the Preliminary Approval Order,
27 VMware shall use reasonable best efforts to: (i) locate record shareholder lists of VMware
28 shareholders during the Class Period to the extent such lists exist; (ii) identify and provide contact

1 information for VMware's transfer agent(s) during the Class Period; and (iii) facilitate access to such
2 information for Lead Counsel or the Claims Administrator, without any charge to Lead Plaintiff or
3 the Class, as for purposes of providing notice of the proposed Settlement to the Class. The Parties
4 shall determine an appropriate electronic format for provision of this information.

5 5.3 In accordance with the schedule set forth in the Preliminary Approval Order, Lead
6 Counsel will cause the Postcard Notice, substantially in the form of Exhibit A-4 attached hereto, to
7 be emailed or mailed (in those instances where no email address is available) by the Claims
8 Administrator to all shareholders of record, or their nominees. The Notice and Proof of Claim and
9 Release shall also be posted on the Settlement website. In accordance with the schedule set forth in
10 the Preliminary Approval Order, the Summary Notice, substantially in the form of Exhibit A-3
11 attached hereto, will also be published once in the national edition of *The Wall Street Journal* and
12 once over a national newswire service. The cost of providing such notice shall be paid out of the
13 Settlement Fund.

14 5.4 The Settlement Fund shall be applied as follows:

15 (a) to pay all Notice and Administration Costs;
16 (b) to pay all Taxes and Tax Expenses described in ¶2.8 hereof;
17 (c) to pay Lead Counsel's attorneys' fees and expenses, plus interest (the "Fee
18 and Expense Award"), and to pay an award to Lead Plaintiff pursuant to 15 U.S.C. §78u-4(a)(4), if
19 and to the extent allowed by the Court; and

20 (d) to distribute the Net Settlement Fund to Authorized Claimants as allowed by
21 the Stipulation, the Plan of Allocation, or the Court.

22 5.5 Upon the Effective Date and thereafter, and in accordance with the terms of the
23 Stipulation, the Plan of Allocation, or such further approval and further order(s) of the Court as may
24 be necessary or as circumstances may require, the Net Settlement Fund shall be distributed to
25 Authorized Claimants, subject to and in accordance with ¶¶5.6-5.9 below.

26 5.6 Each Person claiming to be an Authorized Claimant shall be required to submit to the
27 Claims Administrator a completed Proof of Claim and Release, substantially in the form of Exhibit
28 A-2 attached hereto, received by no later than ninety (90) calendar days after the Notice Date (as

1 defined in Exhibit A attached hereto), or such other time as may be set by the Court (the “Bar
2 Date”), signed under penalty of perjury and supported by such documents as are specified in the
3 Proof of Claim and Release.

4 5.7 Except as otherwise ordered by the Court, all Class Members who fail to submit a
5 Proof of Claim and Release by the Bar Date, or such other period as may be ordered by the Court, or
6 who submit a Proof of Claim and Release that is rejected, shall be forever barred from receiving any
7 payments pursuant to the Stipulation and the Settlement set forth herein, but will in all other respects
8 be subject to and bound by the provisions of the Stipulation, the releases contained herein, and the
9 Judgment. Notwithstanding the foregoing, Lead Counsel shall have the discretion (but not the
10 obligation) to accept late-submitted claims for processing so long as the distribution of the Net
11 Settlement Fund to Authorized Claimants is not materially delayed thereby.

12 5.8 The Claims Administrator shall calculate the claims of Authorized Claimants in
13 accordance with the Plan of Allocation set forth in the Notice and approved by the Court. Following
14 the Effective Date, the Claims Administrator shall send to each Authorized Claimant his, her, or its
15 *pro rata* share of the Net Settlement Fund, as long as the Authorized Claimant will receive at least
16 \$10.00.

17 5.9 The Net Settlement Fund is non-reversionary and Defendants shall not have a
18 reversionary interest in the Net Settlement Fund. If there is any balance remaining in the Net
19 Settlement Fund after a reasonable amount of time following the date of the initial distribution of the
20 Net Settlement Fund, Lead Counsel shall, if feasible, reallocate such balance among Authorized
21 Claimants who negotiated the checks sent to them in the initial distribution and who would receive at
22 least \$10.00 in an equitable and economical fashion. These reallocations shall be repeated until the
23 balance remaining in the Net Settlement Fund is *de minimis* and such remaining balance shall then
24 be donated to the Council of Institutional Investors.

25 5.10 The Released Defendants Parties shall have no responsibility for, interest in, or
26 liability whatsoever with respect to the processing, review, determination, or calculation of any
27 claims, the distribution of the Net Settlement Fund, the Plan of Allocation, the payment or
28 withholding of Taxes, or any losses incurred in connection therewith. No Person shall have any

1 claim of any kind against the Defendants, Released Defendants Parties, or counsel for Defendants
2 with respect to the matters set forth in ¶¶5.1-5.12 hereof; and the Members of the Class, Lead
3 Plaintiff, and Lead Counsel release the Defendants and Released Defendants Parties from any and all
4 liability and claims arising from or with respect to the administration, investment, or distribution of
5 the Settlement Fund.

6 5.11 It is understood and agreed by the Settling Parties that any proposed Plan of
7 Allocation of the Net Settlement Fund, including, but not limited to, any adjustments to an
8 Authorized Claimant's claim set forth therein, is not a part of the Stipulation and is to be considered
9 by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy
10 of the Settlement set forth in the Stipulation, and any order or proceeding relating to the Plan of
11 Allocation shall not operate to terminate or cancel the Stipulation or affect the finality of the Court's
12 Judgment approving the Stipulation and the Settlement set forth therein, or any other orders entered
13 pursuant to the Stipulation. Class Members and Defendants shall be bound by the terms of this
14 Stipulation, irrespective of whether the Court disapproves or modifies the Plan of Allocation.

15 5.12 No Person shall have any claim against Lead Plaintiff, the Class, Lead Counsel,
16 Released Defendants Parties, Defendants' counsel, or the Claims Administrator based on
17 distributions made substantially in accordance with the Settlement, the Stipulation, and the Plan of
18 Allocation, or otherwise as further ordered by the Court.

19 **6. Lead Counsel's Attorneys' Fees and Expenses**

20 6.1 Lead Counsel may submit an application or applications (the "Fee and Expense
21 Application") for: (a) an award of attorneys' fees; plus (b) expenses or charges in connection with
22 prosecuting the Action; plus (c) any interest on such attorneys' fees and expenses at the same rate
23 and for the same periods as earned by the Settlement Fund (until paid) as may be awarded by the
24 Court. Any and all such fees, expenses, and costs awarded by the Court shall be payable solely out
25 of the Settlement Fund. In addition, Lead Plaintiff may submit an application for an award from the
26 Settlement Fund pursuant to 15 U.S.C. §78u-4(a)(4) in connection with its representation of the
27 Class.

1 6.2 The attorneys' fees and expenses, as awarded by the Court, shall be paid to Lead
2 Counsel from the Settlement Fund, as ordered, immediately upon entry of the Court's order
3 awarding such fees and expenses. This provision shall apply notwithstanding timely objection to,
4 potential for appeal from, or collateral attack on, the Settlement or the award of fees and expenses.
5 Any such awards shall be paid solely by the Settlement Fund. In the event that the Judgment or the
6 order awarding such fees and expenses paid to Lead Counsel pursuant to ¶6.1 and this ¶6.2 is
7 reversed or modified, or if the Settlement is cancelled or terminated for any reason, then Lead
8 Counsel shall, in an amount consistent with such reversal, modification, termination, or cancellation,
9 refund such fees or expenses to the Settlement Fund pursuant to ¶2.9, plus the interest earned
10 thereon, within twenty-one (21) calendar days from receiving notice from Defendants' counsel or
11 from a court of competent jurisdiction. Lead Counsel, as a condition of receiving such fees or
12 expenses on behalf of itself and each partner and/or shareholder of it, agrees that it and its partners
13 and/or shareholders are subject to the jurisdiction of the Court for the purpose of enforcing the
14 provisions of this paragraph.

15 6.3 The procedure for and the allowance or disallowance by the Court of the Fee and
16 Expense Application, with all amounts to be paid out of the Settlement Fund, are not part of the
17 Settlement set forth in the Stipulation, and any order or proceeding relating to the Fee and Expense
18 Application, or any appeal from any order relating thereto or reversal or modification thereof, shall
19 not operate to terminate or cancel the Stipulation, or affect or delay the finality of the Judgment
20 approving the Stipulation and the Settlement of the Action.

21 6.4 Released Defendants Parties shall not have any responsibility for any payment of
22 attorneys' fees and expenses to Lead Counsel or any Class Member's counsel or any amount to Lead
23 Plaintiff apart from payment of the Settlement Amount pursuant to ¶2.1.

24 **7. Conditions of Settlement, Effect of Disapproval, Cancellation, or**
25 **Termination**

26 7.1 The Effective Date of the Stipulation shall be conditioned on the occurrence of all of
27 the following events:
28

1 (a) execution of the Stipulation and such other documents as may be required to
2 obtain final Court approval of the Stipulation in a form satisfactory to the Settling Parties;

3 (b) the Settlement Amount has been deposited into the Escrow Account;

4 (c) the Court has entered the Preliminary Approval Order, substantially in the
5 form of Exhibit A hereto, as required by ¶3.1 hereof;

6 (d) Defendants have not exercised their option to terminate the Stipulation
7 pursuant to ¶7.3 hereof;

8 (e) the Court has entered the Judgment that, *inter alia*, dismisses with prejudice
9 the Action, as to the Lead Plaintiff and other Class Members, and as against each of the Defendants,
10 as set forth above; and

11 (f) the Judgment has become Final, as defined in ¶1.10 hereof.

12 7.2 Upon the occurrence of all of the events referenced in ¶7.1 hereof, any and all
13 remaining interest or right of Defendants in or to the Settlement Fund, if any, shall be absolutely and
14 forever extinguished. If all of the conditions specified in ¶7.1 hereof are not met, then the
15 Stipulation shall be canceled and terminated subject to ¶7.4 hereof unless Lead Counsel and
16 Defendants' counsel mutually agree in writing to proceed with the Settlement.

17 7.3 Defendants shall have the option to terminate the Settlement in the event that Persons
18 who otherwise would be members of the Class and timely choose to exclude themselves from the
19 Class in accordance with the provisions of the Preliminary Approval Order and Notice given
20 pursuant thereto purchased more than a certain number of shares of VMware Class A common stock
21 during the Class Period ("Opt-Out Threshold"), as set forth in a separate agreement (the
22 "Supplemental Agreement") executed between Lead Counsel and Defendants' counsel, which is
23 incorporated by reference into this Stipulation. The parties shall not file the Supplemental
24 Agreement with the Court unless instructed to do so by the Court. The Opt-Out Threshold may be
25 disclosed to the Court for purposes of approval of the Settlement, as may be required by the Court,
26 but such disclosure shall be carried out to the fullest extent possible in accordance with the practices
27 of the Court so as to maintain the Opt-Out Threshold as confidential.

1 7.4 Unless otherwise ordered by the Court, in the event the Stipulation shall terminate, or
2 be canceled, or shall not become effective for any reason, within twenty-one (21) calendar days after
3 written notification of such event is sent by Defendants' counsel to the Escrow Agent, the Settlement
4 Fund (including accrued interest), less expenses which have either been incurred or disbursed
5 pursuant to ¶¶2.7 or 2.8 hereof, shall be refunded pursuant to written instructions from Defendants'
6 counsel to the party, parties, or insurers that paid the Settlement Amount. At the request of
7 Defendants' counsel, the Escrow Agent or its designee shall apply for any tax refund owed on the
8 Settlement Fund and pay the proceeds, after deduction of any expenses incurred in connection with
9 such application(s) for refund, at the written direction of Defendants' counsel to the party, parties, or
10 insurers that paid the Settlement Amount.

11 7.5 In the event that the Stipulation is not approved by the Court or the Settlement set
12 forth in the Stipulation is terminated or fails to become effective in accordance with its terms, the
13 Settling Parties shall be restored to their respective positions in the Action as of September 4, 2024.
14 In such event, the terms and provisions of the Stipulation, with the exception of ¶¶1.1-1.34, 2.7-2.8,
15 7.4, and 8.3 hereof, shall have no further force and effect with respect to the Settling Parties and
16 shall not be used in this Action or in any other proceeding for any purpose, and any Judgment or
17 order entered by the Court in accordance with the terms of the Stipulation shall be treated as vacated,
18 *nunc pro tunc*, and the Settling Parties shall be deemed to return to their status as of September 4,
19 2024. No order of the Court or modification or reversal on appeal of any such order of the Court
20 concerning the Plan of Allocation or the amount of any attorneys' fees and expenses, interest, or
21 other payment awarded by the Court to Lead Counsel shall constitute grounds for cancellation or
22 termination of the Stipulation.

23 7.6 Each of the Defendants warrants and represents that, as of the time this Stipulation is
24 executed and as of the time the Settlement Amount is actually transferred or made as reflected in this
25 Stipulation, he or it is not "insolvent" within the meaning of 11 U.S.C. §101(32). If, before the
26 Settlement becomes Final, any Defendant files for protection under the Bankruptcy Code, or any
27 similar law, or a trustee, receiver, conservator, or other fiduciary is appointed under bankruptcy, or
28 any similar law, and in the event of the entry of a final order of a court of competent jurisdiction

determining the transfer of money or any portion thereof to the Escrow Agent by or on behalf of any Defendant to be a preference, voidable transfer, fraudulent transfer, or similar transaction and any portion thereof is required to be returned, and such amount is not promptly deposited with the Escrow Agent by others, then, at the election of Lead Plaintiff, the Settling Parties shall jointly move the Court to vacate and set aside the release given and the Judgment entered in favor of the Defendants and that the Defendants and Plaintiff and the members of the Class shall be restored to their litigation positions as of September 4, 2024.

8. No Admission of Wrongdoing

8.1 Neither the Settlement, this Stipulation (whether or not consummated), including the Exhibits hereto and the Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), the negotiations leading to the execution of this Stipulation and the Settlement, nor any proceedings, communications, drafts, documents or agreements taken pursuant to or in connection with this Stipulation, and/or approval of the Settlement (including any arguments proffered in connection therewith):

(a) shall be offered or received against any Defendant as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by any Defendant of the truth of any allegations by Lead Plaintiff or any Member of the Class or the validity of any claim that has been or could have been asserted in the Litigation, or the deficiency of any defense that has been or could have been asserted in the Action or in any other litigation, including, but not limited to, litigation of the Released Claims, or of any liability, negligence, fault, or wrongdoing of any kind of any of the Defendants or in any way referred to for any other reason as against any of the Defendants, in any civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation;

(b) shall be offered or received against or to the prejudice of any Defendant as evidence of a presumption, concession, or admission of any fault, misrepresentation, or omission with respect to any statement or written document approved or made by any Defendant, or against Lead Plaintiff or any Member of the Class as evidence of any infirmity in the claims of Lead Plaintiff and the Class;

(c) shall be offered or received against any Defendant as evidence of a presumption, concession, or admission of any liability, negligence, fault, or wrongdoing, or in any way referred to for any other reason as against any of the parties to this Stipulation, in any other civil, criminal, or administrative action or proceeding; provided, however, that if this Stipulation is approved by the Court, Defendants and the Released Defendants Parties may refer to it to effectuate the release granted them hereunder; or

(d) shall be construed against Defendants, Lead Plaintiff, or the Class as evidence of a presumption, concession or admission that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial or in any proceeding other than this Settlement.

9. Miscellaneous Provisions

9.1 The Settling Parties (a) acknowledge that it is their intent to consummate this Stipulation; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of the Stipulation and to exercise their best efforts to accomplish the foregoing terms and conditions of the Stipulation expeditiously.

9.2 The Settling Parties intend this Settlement to be a final and complete resolution of all disputes between them with respect to the Action. The Settlement shall not be deemed an admission by any Settling Party or any of the Released Parties as to the merits of any claim or defense. The Settling Parties and their counsel agree that they shall not assert any claims of any violation of Rule 11 of the Federal Rules of Civil Procedure relating to the institution, prosecution, defense, or settlement of the Action, and the Final Judgment shall contain a finding that all Settling Parties and their counsel complied with the requirements of Rule 11 with respect to the institution, prosecution, defense, and resolution of the Action. The Settling Parties agree that the amount paid to the Settlement Fund and the other terms of the Settlement were negotiated in good faith at arm's length by the Settling Parties and reflect a settlement that was reached voluntarily after consultation with competent legal counsel. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum regarding the Action, including that the Action was brought or defended in bad faith or without a reasonable basis.

1 9.3 Neither the Memorandum of Understanding, the Stipulation, nor the Settlement
2 contained herein, nor any act performed or document executed pursuant to or in furtherance of the
3 Stipulation or the Settlement: (a) is or may be deemed to be or may be used as an admission of, or
4 evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Released
5 Defendants Parties; or (b) is or may be deemed to be or may be used as an admission of, or evidence
6 of, any fault or omission of any of the Released Defendants Parties in any civil, criminal, or
7 administrative proceeding in any court, administrative agency, or other tribunal; or (c) is or may be
8 deemed to be or may be used as an admission or evidence that any claims asserted by Lead Plaintiff
9 were not valid or that the amount recoverable was not greater than the Settlement Amount, in any
10 civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal.

11 9.4 The Released Defendants Parties may file the Stipulation and/or the Judgment in any
12 action that may be brought against them in order to support a defense or counterclaim based on
13 principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or
14 reduction or any other theory of claim preclusion or issue preclusion or similar defense or
15 counterclaim.

16 9.5 Whether or not the Stipulation is approved by the Court and whether or not the
17 Stipulation is consummated, or the Effective Date occurs, the Parties and their counsel shall use their
18 best efforts to keep all negotiations, discussions, acts performed, agreements, drafts, documents
19 signed and proceedings in connection with the Stipulation confidential.

20 9.6 All agreements made and orders entered during the course of the Action relating to
21 the confidentiality of documents and information, including the Stipulated Protective Order (ECF
22 100) shall survive this Stipulation.

23 9.7 All of the Exhibits to the Stipulation are material and integral parts hereof and are
24 fully incorporated herein by this reference.

25 9.8 The Stipulation may be amended or modified only by a written instrument signed by
26 or on behalf of all Settling Parties or their respective successors-in-interest.

27 9.9 No waiver of any term or provision of this Stipulation, or of any breach or default
28 hereof or hereunder, shall be valid or effective unless in writing and signed by or on behalf of all

1 Settling Parties or their respective successors-in-interest. No waiver of any term or provision of this
2 Stipulation, or of any breach or default hereof or hereunder, shall be construed as a waiver of the
3 same or any other term or provision or of any previous or subsequent breach thereof.

4 9.10 The Stipulation and the Exhibits attached (together with the Supplemental Agreement
5 referred to in ¶7.3) hereto constitute the entire agreement among the Settling Parties and no
6 representations, warranties, or inducements have been made to any Settling Party concerning the
7 Stipulation or its Exhibits other than the representations, warranties, and covenants contained and
8 memorialized in such documents. Except as otherwise provided herein (or, as between Defendants,
9 in any separate agreement(s) between them), each Settling Party shall bear its own costs.

10 9.11 The Settlement is not conditioned upon the settlement or approval of settlement of
11 any derivative lawsuits or other lawsuits. Nor shall the Settlement be conditional upon the obtaining
12 of any judicial approval of any releases between or among Defendants and/or any third parties.

13 9.12 This Stipulation shall be construed and interpreted to effectuate the intent of the
14 Settling Parties, which is to resolve completely those claims and disputes, including in the Action,
15 and as more fully described herein. If any provision of this Stipulation shall be determined to be
16 invalid, void, or illegal, such provision shall be construed and amended in a manner that would
17 permit its enforcement, but in no event shall such provision affect, impair, or invalidate any other
18 provision hereof.

19 9.13 Neither the Class Members nor Defendants shall be bound by the Stipulation if the
20 Court modifies material terms thereof; provided, however, that it shall not be a basis for Class
21 Members to terminate the Settlement if the Court modifies any proposed Plan of Allocation or
22 criteria for allocation of the Net Settlement Fund amongst Authorized Claimants, or the Plan of
23 Allocation is modified on appeal. Nor shall it be a basis to terminate the Stipulation if the Court
24 disapproves of or modifies the terms of this Stipulation with respect to attorneys' fees or expenses or
25 the distribution of the Net Settlement Fund. Notwithstanding any such modification of the terms or
26 Plan of Allocation or the Stipulation with respect to attorneys' fees or expenses, Defendants and
27 Defendants' insurers shall be entitled to all benefits of the Settlement and shall not, under any
28 circumstances, be called upon to contribute additional funds in addition to the Settlement Fund.

9.14 Defendants shall be responsible for providing any notice that may be required under CAFA within ten (10) calendar days of the filing of this Stipulation with the Court. Defendants shall be responsible for all costs and expenses related thereto. The Settling Parties agree that any delay by Defendants in timely providing the CAFA notice shall not provide grounds for delay of the Settlement Hearing or entry of the Judgment.

9.15 Lead Counsel, on behalf of the Class, is expressly authorized by Lead Plaintiff to take all appropriate action required or permitted to be taken by the Class pursuant to the Stipulation to effectuate its terms and also is expressly authorized to enter into any modifications or amendments to the Stipulation on behalf of the Class which it deems appropriate.

9.16 Each counsel or other Person executing the Stipulation or any of its Exhibits on behalf of any Settling Party hereby warrants that such Person has the full authority to do so.

9.17 All notices, requests, demands, claims, and other communications hereunder shall be in writing and shall be deemed duly given: (i) when delivered personally to the recipient; (ii) one (1) business day after being sent to the recipient by reputable overnight courier service (charges prepaid); or (iii) five (5) business days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid, and addressed to the intended recipient as set forth below:

If to Lead Plaintiff or to Lead Counsel:

Spencer A. Burkholz
 Scott H. Saham
 Robbins Geller Rudman & Dowd LLP
 655 West Broadway, Suite 1900
 San Diego, CA 92101

If to Defendants or to Defendants' Counsel:

Maeve L. O'Connor
 Elliot Greenfield
 Debevoise & Plimpton LLP
 66 Hudson Boulevard
 New York, NY 10001

9.18 The Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of executed counterparts shall be filed with the Court.

9.19 The Stipulation shall be binding upon, and inure to the benefit of, the heirs, successors, and assigns of the Settling Parties hereto.

9.20 The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of the Stipulation, and all Settling Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation.

9.21 Pending approval of the Court of the Stipulation and its Exhibits, all proceedings in this Action shall be stayed, and all members of the Class shall be barred and enjoined from prosecuting any of the Released Claims against any of the Released Defendants Parties.

9.22 This Stipulation and the Exhibits hereto shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the State of California, and the rights and obligations of the parties to the Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of California, without giving effect to that State's choice-of-law principles.

9.23 This Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Settling Parties, it being recognized that it is the result of arm's-length negotiations between the Settling Parties and the Settling Parties have contributed substantially and materially to the preparation of this Stipulation.

IN WITNESS WHEREOF, the Settling Parties have caused this Stipulation to be executed,
by their duly authorized attorneys, on October 4, 2024.

ROBBINS GELLER RUDMAN
& DOWD LLP
SPENCER A. BURKHOLZ
LAURIE L. LARGENT
LAURA ANDRACCHIO
SCOTT H. SAHAM
ASHLEY M. KELLY
TING H. LIU
STEPHEN JOHNSON



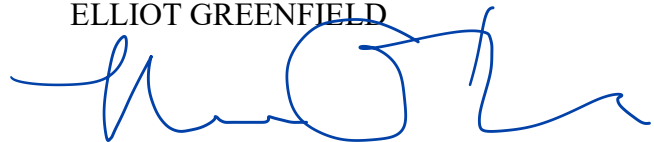
SCOTT H. SAHAM

655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)
spenceb@rgrdlaw.com
llargent@rgrdlaw.com
landracchio@rgrdlaw.com
scotts@rgrdlaw.com
ashleyk@rgrdlaw.com
tliu@rgrdlaw.com
sjohnson@rgrdlaw.com

ROBBINS GELLER RUDMAN
& DOWD LLP
SHAWN A. WILLIAMS
Post Montgomery Center
One Montgomery Street, Suite 1800
San Francisco, CA 94104
Telephone: 415/288-4545
415/288-4534 (fax)
shawnw@rgrdlaw.com

Lead Counsel for Lead Plaintiff

DEBEVOISE & PLIMPTON LLP
MAEVE L. O'CONNOR
ELLIOT GREENFIELD



MAEVE L. O'CONNOR

66 Hudson Boulevard
New York, New York 10001
Telephone: 212-909-6000

DEBEVOISE & PLIMPTON LLP
JOSH A. COHEN
650 California Street
San Francisco, California 94108
Telephone: 415-738-5700

Attorneys for Defendants

EXHIBIT A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM LAMARTINA, Individually and on)
Behalf of All Others Similarly Situated,)
)
Plaintiff,)
)
vs.)
)
VMWARE, INC., et al.,)
)
Defendants.)

Case No. 5:20-cv-02182-EJD (VKD)

CLASS ACTION

[PROPOSED] ORDER PRELIMINARILY
APPROVING SETTLEMENT AND
PROVIDING FOR NOTICE

EXHIBIT A

1 WHEREAS, an action is pending before this Court titled *Lamartina v. VMware, Inc., et al.*,
2 No. 5:20-cv-02182-EJD (N.D. Cal.) (the “Action”);

3 WHEREAS, the parties having made application, pursuant to Federal Rule of Civil
4 Procedure 23(e), for an order preliminarily approving the settlement of this Action, in accordance
5 with a Stipulation of Settlement dated October 4, 2024 (the “Stipulation”), which, together with the
6 Exhibits annexed thereto, sets forth the terms and conditions for a proposed settlement of the Action
7 and for dismissal of the Action with prejudice upon the terms and conditions set forth therein; and
8 the Court having read and considered the Stipulation and the Exhibits annexed thereto; and

9 WHEREAS, unless otherwise defined, all capitalized terms used herein have the same
10 meanings as set forth in the Stipulation.

11 NOW, THEREFORE, IT IS HEREBY ORDERED:

12 1. After a preliminary review, the Settlement appears to be fair, reasonable, and
13 adequate. The Settlement: (i) resulted from arm’s-length negotiations overseen by an experienced
14 mediator; (ii) eliminates the risks to the Settling Parties of continued litigation; (iii) does not provide
15 undue preferential treatment to Lead Plaintiff or to segments of the Class¹; (iv) does not provide
16 excessive compensation to counsel for the Class; and (v) appears to fall within the range of possible
17 approval and is therefore sufficiently fair, reasonable, and adequate to warrant providing notice of
18 the Settlement to the Class. Accordingly, the Court hereby preliminarily approves the Stipulation
19 and the Settlement set forth therein, subject to further consideration at the Settlement Hearing
20 described below.

21
22 ¹ The “Class” is defined as all persons who purchased the publicly traded Class A common stock
23 of VMware during the period from August 24, 2018 through February 27, 2020, inclusive (the
24 “Class Period”), and were damaged thereby. Excluded from the Class are Individual Defendants and
25 their immediate family members. Also excluded from the Class are any persons or entities who
26 exclude themselves by submitting a request for exclusion in connection with the Notice that is
27 accepted by the Court.
28

2. A hearing (the “Settlement Hearing”) shall be held before this Court on _____, 2024, at __: __.m. [a date that is at least 100 days from the date of this Order], at the United States District Court for the Northern District of California, Courtroom 4—5th Floor, 280 South 1st Street, San Jose, CA 95113, for the following purposes:

(a) to determine whether the Settlement is fair, reasonable, and adequate, and should be approved by the Court;

(b) to finally determine whether Judgment as provided under the Stipulation should be entered, dismissing the Action on the merits and with prejudice, and to determine whether the release by the Class of the Released Defendants Parties as set forth in the Stipulation, should be ordered, along with a permanent injunction barring efforts to bring any Released Claims or Released Defendants’ Claims extinguished by the Settlement;

(c) to finally determine whether the proposed Plan of Allocation for the distribution of the Net Settlement Fund is fair and reasonable and should be approved by the Court;

(d) to consider the application of Lead Counsel for an award of attorneys’ fees and expenses and an award to Lead Plaintiff;

(e) to consider Class Members’ objections to the Settlement, Plan of Allocation, or application for fees and expenses; and

(f) to rule upon such other matters as the Court may deem appropriate.

3. The Court may adjourn the Settlement Hearing without further notice to the members of the Class, and reserves the right to approve the Settlement with such modifications as may be agreed upon or consented to by the Settling Parties and without further notice to the Class where to do so would not impair Class Members’ rights in a manner inconsistent with Rule 23 of the Federal Rules of Civil Procedure and due process of law. The Court further reserves the right to enter its Judgment approving the Settlement and dismissing the Action, on the merits and with prejudice, regardless of whether it has approved the Plan of Allocation or awarded attorneys’ fees and expenses.

4. The Court approves, as to form and content, the Notice of Pendency and Proposed Settlement of Class Action (the “Notice”), the Proof of Claim and Release Form (the “Proof of

1 Claim”), the Summary Notice, and the Postcard Notice, annexed hereto as Exhibits A-1, A-2, A-3,
2 and A-4, respectively, and finds that the distribution of the Postcard Notice by email or regular mail
3 (where an email is unavailable) and publishing of the Summary Notice, substantially in the manner
4 and form set forth in ¶¶ 7-8 of this Order, meet the requirements of Rule 23 of the Federal Rules of
5 Civil Procedure and due process, and is the best notice practicable under the circumstances and shall
6 constitute due and sufficient notice to all Persons entitled thereto.

7 5. The firm of Gilardi & Co. LLC (“Claims Administrator”) is hereby appointed to
8 supervise and administer the notice procedure as well as the processing of claims as more fully set
9 forth below.

10 6. Within seven (7) calendar days after the Court enters this Order, VMware shall use
11 reasonable best efforts to: (i) locate record shareholder lists of VMware shareholders during the
12 Class Period to the extent such lists exist; (ii) identify and provide contact information for VMware’s
13 transfer agent(s) during the Class Period; and (iii) shall facilitate access to such information for Lead
14 Counsel or the Claims Administrator, at no cost to Lead Plaintiff of the Class, for purposes of
15 providing notice of the proposed Settlement to the Class. The Settling Parties shall determine an
16 appropriate electronic format for provision of this information.

17 7. Lead Counsel, through the Claims Administrator, shall commence emailing or
18 mailing (where an email is unavailable) the Postcard Notice, substantially in the form annexed
19 hereto, within twenty (20) calendar days after the Court signs this Order (the “Notice Date”), by
20 email or by first-class mail to all Class Members who can be identified with reasonable effort.
21 Contemporaneously with the emailing or mailing of the Postcard Notice, the Claims Administrator
22 shall cause the Notice and Proof of Claim, substantially in the forms attached hereto, to be posted on
23 the Settlement website at www.VMwareSecuritiesLitigation.com, from which copies of the
24 documents can be downloaded.

25 8. Not later than seven (7) calendar days after the Notice Date, the Claims Administrator
26 shall cause the Summary Notice to be published once in the national edition of *The Wall Street*
27 *Journal* and once over a national newswire service.

1 9. At least seven (7) calendar days prior to the Settlement Hearing, Lead Counsel shall
2 serve on Defendants' counsel and file with the Court proof, by affidavit or declaration, of such
3 emailing, mailing, and publishing.

4 10. Nominees who purchased VMware Class A common stock for the beneficial
5 ownership of Class Members during the Class Period shall: (i) within seven (7) calendar days of
6 receipt of the Postcard Notice request from the Claims Administrator sufficient copies of the
7 Postcard Notice to forward to all such beneficial owners and within seven (7) calendar days of
8 receipt of those documents forward them to all such beneficial owners; or (ii) within seven (7)
9 calendar days of receipt of the Postcard Notice, send a list of the names and addresses, including
10 email addresses where available, of all such beneficial owners to the Claims Administrator in which
11 event the Claims Administrator shall promptly email or mail (where an email is unavailable) the
12 Postcard Notice to such beneficial owners. Lead Counsel shall, if requested, reimburse banks,
13 brokerage houses, or other nominees solely for their reasonable out-of-pocket expenses incurred in
14 providing notice to beneficial owners who are Class Members out of the Settlement Fund, which
15 expenses would not have been incurred except for the sending of such notice, as set forth in the
16 Notice, subject to further order of this Court with respect to any dispute concerning such
17 compensation.

18 11. In order to be entitled to participate in the recovery from the Settlement Fund after the
19 Effective Date, each Class Member shall take the following action and be subject to the following
20 conditions:

21 (a) A properly completed and executed Proof of Claim must be submitted to the
22 Claims Administrator, at the post office box or electronic mailbox indicated in the Notice and Proof
23 of Claim, received² no later than ninety (90) calendar days from the Notice Date. Such deadline may
24 be further extended by Order of the Court. Each Proof of Claim shall be deemed to have been

25 ² Claims, objections, requests for exclusion, and other correspondence that are legibly postmarked
26 will be treated as received on the postmark date. The documents providing notice shall advise Class
27 Members that the U.S. Postal Service may not postmark mail which is not presented in person.
28

1 submitted when received (if properly addressed and mailed by first-class mail). Any Proof of Claim
2 submitted in any other manner shall be deemed to have been submitted when it was actually received
3 by the Claims Administrator at the address designated in the Notice.

4 (b) The Proof of Claim submitted by each Class Member must satisfy the
5 following conditions: (i) it must be properly filled out, signed, and submitted in a timely manner in
6 accordance with the provisions of the preceding subparagraph; (ii) it must be accompanied by
7 adequate supporting documentation for the transactions reported therein, in the form of broker
8 confirmation slips, broker account statements, an authorized statement from the broker containing
9 the transactional information found in a broker confirmation slip, or such other documentation as is
10 deemed adequate by the Claims Administrator or Lead Counsel; (iii) if the person executing the
11 Proof of Claim is acting in a representative capacity, a certification of their, his, or her current
12 authority to act on behalf of the Class Member must be provided with the Proof of Claim; and (iv)
13 the Proof of Claim must be complete and contain no material deletions or modifications of any of the
14 printed matter contained therein and must be signed under penalty of perjury.

15 (c) Once the Claims Administrator has considered a timely submitted Proof of
16 Claim, it shall determine whether such claim is valid, deficient, or rejected. For each claim
17 determined to be either deficient or rejected, the Claims Administrator shall send a deficiency letter
18 or rejection letter as appropriate, describing the basis on which the claim was so determined.
19 Persons who timely submit a Proof of Claim that is deficient or otherwise rejected shall be afforded a
20 reasonable time (at least twenty (20) calendar days) to cure such deficiency if it shall appear that
21 such deficiency may be cured.

22 (d) For the filing of and all determinations concerning their Proof of Claim, each
23 Class Member shall submit to the jurisdiction of the Court.

24 12. Any Class Member who does not timely submit a valid and timely Proof of Claim
25 within the time provided for shall be barred from sharing in the distribution of the proceeds of the
26 Settlement Fund, but will in all other respects be subject to and bound by the provisions of the
27 Stipulation and the Judgment, if entered. Notwithstanding the foregoing, Lead Counsel shall have
28 the discretion (but not an obligation) to accept late-submitted claims for processing by the Claims

1 Administrator so long as distribution of the Net Settlement Fund to Authorized Claimants is not
2 materially delayed thereby, but will bear no liability for failing to accept such late-claims.

3 13. Any member of the Class may enter an appearance in the Action, individually or
4 through counsel of their own choice, at their own expense. If they do not enter an appearance, they
5 will be represented by Lead Counsel.

6 14. All Class Members shall be bound by all determinations and judgments in this
7 Action, whether favorable or unfavorable, unless such persons request to be excluded, or “opt out,”
8 from the Class. Any Class Members who wish to exclude themselves from the Class must request
9 exclusion in writing within the time and in the manner set forth in the Notice. Any such Person must
10 submit to the Claims Administrator a signed request for exclusion (“Request for Exclusion”) such
11 that it is received³ no later than _____, 2024 (a date that is twenty-one (21) calendar days prior
12 to the Settlement Hearing). A Request for Exclusion must provide: (i) the name, address, and
13 telephone number of the Person requesting exclusion; (ii) a list identifying the number of shares of
14 VMware Class A common stock purchased during the Class Period and the date of each purchase;
15 and (iii) a statement that the Person wishes to be excluded from the Class. All Persons who submit
16 valid and timely Requests for Exclusion in the manner set forth in this paragraph shall have no rights
17 under the Settlement, shall not share in the distribution of the Net Settlement Fund, and shall not be
18 bound by the Settlement or any Final Judgment. Unless otherwise ordered by the Court, any Person
19 who purchased VMware Class A common stock during the Class Period, and who fails to timely
20 request exclusion from the Class in compliance with this paragraph shall be deemed to have waived
21 their, his, her, or its right to be excluded from the Class and shall be barred from requesting
22 exclusion from the Class.

23 15. The Court will consider comments or objections to the Settlement, the Plan of
24 Allocation, or Lead Counsel’s request for an award of attorneys’ fees and expenses, only if such
25 comments or objections and any supporting papers are submitted to the Court either by mailing them
26 to the Clerk of the Court, United States District Court for the Northern District of California, 280

27 ³ See n.2, above.

South 1st Street, San Jose, CA 95113, or by filing them in person at any location of the United States District Court for the Northern District of California. Such comments or objections must be filed or received⁴ at least twenty-one (21) calendar days prior to the Settlement Hearing, or _____, 2024. Attendance at the Settlement Hearing is not necessary, but any Person wishing to be heard orally in opposition to the Settlement, the Plan of Allocation, or the application for attorneys' fees and expenses is required to indicate in their written objection whether they intend to appear at the Settlement Hearing. The notice of objection must include documentation establishing the objecting Person's membership in the Class, including the number of shares of VMware Class A common stock that the objecting Person: (i) owned as of the opening of trading on August 24, 2018, and (ii) purchased and/or sold during the Class Period, as well as the dates and prices for each such purchase or sale, and contain a statement of reasons for the objection, including whether it applies only to the objector, to a specific subset of the Class, or to the entire Class. The objection must identify all other class action settlements the objector and his, her, or its counsel has previously objected to, copies of any papers, briefs, or other documents upon which the objection is based, and contain the objector's signature, even if represented by counsel. Any member of the Class who does not make his, her, or its objection in the manner provided shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the Settlement as set forth in the Stipulation, to the Plan of Allocation, or to the award of attorneys' fees and expenses to Lead Counsel unless otherwise ordered by the Court. Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

16. All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

17. All opening briefs and supporting documents in support of the Settlement, the Plan of Allocation, and any application by Lead Counsel for attorneys' fees and expenses and an award to Lead Plaintiff shall be filed and served no later than thirty-five (35) calendar days before the

⁴ See n.2, above.

1 Settlement Hearing, or _____, 2024. Replies to any objections shall be filed and served at
2 least seven (7) calendar days prior to the Settlement Hearing, or _____, 2024.

3 18. The Released Defendants Parties shall have no responsibility, interest in, or liability
4 whatsoever for the Plan of Allocation or any application for attorneys' fees or expenses submitted by
5 Lead Counsel, and such matters will be considered separately from the fairness, reasonableness, and
6 adequacy of the Settlement. Any order or proceeding relating to the Plan of Allocation or any
7 application for attorneys' fees or expenses, or any appeal from any order relating thereto or reversal
8 or modification thereof, shall not operate to terminate or cancel the Stipulation, or affect or delay the
9 finality of the Judgment approving the Stipulation and the settlement of the Action.

10 19. At or after the Settlement Hearing, the Court shall determine whether the Plan of
11 Allocation proposed by Lead Counsel, and any application for attorneys' fees or payment of
12 expenses, including an award to Lead Plaintiff shall be approved.

13 20. All reasonable expenses incurred in identifying and notifying Class Members, as well
14 as administering the Settlement Fund, shall be paid as set forth in the Stipulation.

15 21. Neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations
16 or proceedings connected with it, shall be construed as an admission or concession by the
17 Defendants of the truth of any of the allegations in the Action, or of any liability, fault, or
18 wrongdoing of any kind.

19 22. If the Stipulation and the Settlement set forth therein is not approved or consummated
20 for any reason whatsoever, the Stipulation and Settlement and all proceedings had in connection
21 therewith shall be without prejudice to the rights of the Settling Parties *status quo ante* as set forth in
22 the Stipulation.

23 23. Pending final determination of whether the proposed Settlement should be approved,
24 neither the Lead Plaintiff, nor any Class Member, directly or indirectly, representatively, or in any
25 other capacity, shall institute, commence, or prosecute against any of the Released Defendants
26 Parties, any action or proceeding in any court, tribunal, or other forum asserting any of the Released
27 Claims.

1 24. The Court's orders entered during this Action relating to the confidentiality of
2 information shall survive this Settlement.

3 IT IS SO ORDERED.

4 DATED: _____

THE HONORABLE EDWARD J. DAVILA
UNITED STATES DISTRICT JUDGE

EXHIBIT A-1

ROBBINS GELLER RUDMAN
& DOWD LLP
SHAWN A. WILLIAMS (213113)
Post Montgomery Center
One Montgomery Street, Suite 1800
San Francisco, CA 94104
Telephone: 415/288-4545
415/288-4534 (fax)
shawnw@rgrdlaw.com
– and –
SPENCER A. BURKHOLZ (147029)
LAURIE L. LARGENT (153493)
LAURA ANDRACCHIO (187773)
SCOTT H. SAHAM (188355)
ASHLEY M. KELLY (281597)
TING H. LIU (307747)
STEPHEN JOHNSON (347822)
655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)
spenceb@rgrdlaw.com
llargent@rgrdlaw.com
landracchio@rgrdlaw.com
scottss@rgrdlaw.com
ashleyk@rgrdlaw.com
tliu@rgrdlaw.com
sjohnson@rgrdlaw.com

Lead Counsel for Lead Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM LAMARTINA, Individually and on)
Behalf of All Others Similarly Situated,)
Plaintiff,)
vs.)
VMWARE, INC., et al.,)
Defendants.)

Case No. 5:20-cv-02182-EJD (VKD)

CLASS ACTION

NOTICE OF PENDENCY AND PROPOSED
SETTLEMENT OF CLASS ACTION

EXHIBIT A-1

A Federal Court Authorized This Notice. This Is Not a Solicitation from a Lawyer.

NOTICE OF PENDENCY OF CLASS ACTION: Please be advised that your rights may be affected by the above-captioned class action lawsuit pending in this Court (the “Action”) if you purchased Class A common stock of VMware, Inc. (“VMware” or the “Company”) between August 24, 2018 and February 27, 2020, inclusive (the “Class Period”).

NOTICE OF SETTLEMENT: Please also be advised that lead plaintiff Eastern Atlantic States Carpenters Pension Fund (“Lead Plaintiff”), on behalf of the Class (as defined in ¶1 below), has reached a proposed settlement of the Action for a total of \$102.5 million in cash that will resolve all claims in the Action (the “Settlement”).

This Notice explains important rights you may have, including your possible receipt of cash from the Settlement. Your legal rights will be affected whether or not you act. Please read this Notice carefully.

1. **Description of the Action and the Class:** This Notice relates to a proposed Settlement of a class action lawsuit pending against the following defendants: VMware, Patrick P. Gelsinger, and Zane Rowe (“Defendants”) (collectively, with Lead Plaintiff, the “Settling Parties” or “Parties”). The proposed Settlement, if approved by the Court, will apply to the following Class (the “Class”): all persons who purchased the publicly traded Class A common stock of VMware during the period from August 24, 2018 through February 27, 2020, inclusive, and were damaged thereby. Excluded from the Class are Individual Defendants and their immediate family members. Also excluded from the Class are any persons or entities who exclude themselves by submitting a request for exclusion in connection with this Notice that is accepted by the Court.¹

2. **Statement of Class Recovery:** Subject to Court approval, and as described more fully in ¶¶3-6 below, Lead Plaintiff, on behalf of the Class, has agreed to settle all Released Claims (as defined in ¶51 below) against Defendants and other Released Defendants Parties (as defined in ¶53 below) in exchange for a settlement payment of \$102.5 million in cash (the “Settlement Amount”) to be deposited into an escrow account. The Net Settlement Fund (the Settlement Fund less Taxes and Tax Expenses, Notice and Administration Costs, and attorneys’ fees and litigation expenses) will be distributed in accordance with a plan of allocation (the “Plan of Allocation”) that will be approved by the Court and will determine how the Net Settlement Fund shall be distributed to members of the Class. The Plan of Allocation is a basis for determining the relative positions of Class Members for purposes of allocating the Net Settlement Fund. The proposed Plan of Allocation is included in this Notice, and may be modified by the Court without further notice.

3. **Statement of Average Distribution Per Share:** The Settlement Fund consists of the \$102.5 million Settlement Amount plus interest earned. Assuming all potential Class Members elect to participate, the estimated average recovery is \$1.87 per damaged share before fees and expenses. Class Members may recover more or less than this amount depending on, among other factors, the aggregate value of the Recognized Claims represented by valid and acceptable Proof of Claim and

¹ All capitalized terms used in this Notice that are not otherwise defined herein shall have the meanings provided in the Stipulation of Settlement dated October 4, 2024 (“Stipulation”), which is available on the website www.VMwareSecuritiesLitigation.com.

Release Forms (the “Claim Form” or “Proof of Claim”) as explained in the Plan of Allocation; when their shares were purchased and the price at the time of purchase; whether the shares were sold, and if so, when they were sold and for how much. In addition, the actual recovery of Class Members may be further reduced by the payment of fees and costs from the Settlement Fund, as approved by the Court.

4. **Statement of the Parties’ Position on Damages:** Defendants deny all claims of wrongdoing, that they engaged in any wrongdoing, that they are liable to Lead Plaintiff and/or the Class, and that Lead Plaintiff or other members of the Class suffered any injury. Moreover, the parties do not agree on the amount of recoverable damages if Lead Plaintiff was to prevail on each of the claims. The issues on which the parties disagree include, but are not limited to, whether: (i) the statements made or facts allegedly omitted were material, false or misleading; (ii) Defendants are otherwise liable under the securities laws for those statements or omissions; and (iii) all or part of the damages allegedly suffered by members of the Class were caused by economic conditions or factors other than the allegedly false or misleading statements or omissions.

5. **Statement of Attorneys’ Fees and Expenses Sought:** Lead Counsel will apply to the Court for an award of attorneys’ fees from the Settlement Fund of no more than 25% of the Settlement Amount, plus interest earned at the same rate and for the same period as earned by the Settlement Fund. In addition, Lead Counsel also will apply to the Court for payment from the Settlement Fund for Lead Counsel’s litigation expenses (reasonable expenses or charges of Lead Counsel in connection with commencing and prosecuting the Action), in a total amount not to exceed \$950,000, plus interest earned at the same rate and for the same period as earned by the Settlement Fund. If the Court approves Lead Counsel’s fee and expense application, the estimated average cost per damaged share is \$0.48. In addition, Lead Counsel will apply for an award to Lead Plaintiff Eastern Atlantic States Carpenters Pension Fund in an amount not to exceed \$7,500 pursuant to 15 U.S.C. §78u-4(a)(4) in connection with its representation of the Class.

6. **Identification of Attorneys’ Representatives:** Lead Plaintiff and the Class are being represented by Robbins Geller Rudman & Dowd LLP (“Lead Counsel”). Any questions regarding the Settlement should be directed to Scott H. Saham at Robbins Geller Rudman & Dowd LLP, 655 West Broadway, Suite 1900, San Diego, CA 92101, 1-800-449-4900, settlementinfo@rgrdlaw.com.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

DO NOTHING	Get no payment. Remain a Class Member. Give up your rights.
REMAIN A MEMBER OF THE CLASS AND SUBMIT A CLAIM FORM RECEIVED²OR SUBMITTED ONLINE NO LATER THAN [____], 2024	This is the only way to be potentially eligible to receive a payment. If you wish to obtain a payment as a member of the Class, you will need to file a claim form (the “Claim Form” or “Proof of Claim

² Claims, objections, requests for exclusion, and other correspondence that are legibly postmarked will be treated as received on the postmark date. Please be advised that the U.S. Postal Service may not postmark mail which is not presented in person.

1		Form”), received no later than _____, 2024.
2	EXCLUDE YOURSELF FROM THE	Get no payment. This is the only option that
3	CLASS BY SUBMITTING A REQUEST	potentially allows you to ever be part of any other
4	FOR EXCLUSION THAT IS	lawsuit against the Defendants or any other
5	RECEIVED NO LATER THAN	Released Defendants Parties about the legal claims
6	[____], 2024	being resolved by this Settlement. Should you
7		elect to exclude yourself from the Class, you
8		should understand that Defendants and the other
9	OBJECT TO THE SETTLEMENT SO	Released Defendants Parties will have the right to
10	THAT IT IS FILED OR RECEIVED NO	assert any and all defenses they may have to any
11	LATER THAN [____], 2024	claims that you may seek to assert, including,
12		without limitation, the defense that any such
13		claims are untimely under applicable statutes of
14	GO TO THE HEARING ON [____],	limitations and statutes of repose.
15	2024, AT : ____ M., AND FILE A	Write to the Court about your view on the
16	NOTICE OF INTENTION TO APPEAR	Settlement, or why you do not think the Settlement,
17	SO THAT IT IS RECEIVED NO LATER	the proposed Plan of Allocation, or the request for
18	THAN [____], 2024	attorneys’ fees and litigation expenses is fair to the
19		Class. You will still be a Class Member. You must
20		still submit a Claim Form in order to be potentially
21		eligible to receive any money from the Settlement
22		Fund. If you submit a written objection, you may
23		(but do not have to) attend the hearing.
24		Ask to speak in Court about the fairness of the
25		Settlement, the proposed Plan of Allocation, or the
26		request for attorneys’ fees and litigation expenses.

WHAT THIS NOTICE CONTAINS

18	Why Did I Get This Notice?	Page
19	What Is This Case About? What Has Happened So Far?	Page
20	How Do I Know If I Am Affected By The Settlement?	Page
21	What Are Lead Plaintiff’s Reasons For The Settlement?	Page
22	What Might Happen If There Were No Settlement?	Page
23	How Much Will My Payment Be?	Page
24	What Rights Am I Giving Up By Agreeing To The Settlement?	Page
25	What Payment Are The Attorneys For The Class Seeking?	Page ____
26	How Will The Lawyers Be Paid?	Page ____
27	How Do I Participate In The Settlement?	Page ____
28	What Do I Need To Do?	Page ____
	When And Where Will The Court Decide Whether To Approve The Settlement? Do I Have To Come To The Hearing?	Page ____
	May I Speak At The Hearing If I Do Not Like The Settlement?	Page ____
	What If I Bought Shares On Someone Else’s Behalf?	Page
	Can I See The Court File? Whom Should I Contact If I Have Questions?	Page

WHY DID I GET THIS NOTICE

7. The purpose of this Notice is to inform you about: (i) this Action; (ii) the terms of the proposed Settlement; and (iii) your rights in connection with a hearing to be held before the United States District Court for the Northern District of California (the “Court”), on _____, 2024, at _____.m., to consider the fairness, reasonableness, and adequacy of the Settlement and related matters. This Notice also describes the steps to be taken by those who wish to seek to be potentially eligible to share in the distribution of the Net Settlement Fund in the event the Settlement is approved by the Court.

8. A class action is a type of lawsuit in which the claims of a number of individuals are resolved together, thus providing the class members with both consistency and efficiency. In a class action lawsuit, one or more people, known as class representatives, sue on behalf of people who have similar claims. All of the people with similar claims are referred to as a Class or Class Members. One court resolves the issues for all Class Members, except for those Class Members who exclude themselves from the Class. In this Action, the Court has certified the Class and appointed Lead Plaintiff Eastern Atlantic States Carpenters Pension Fund as the representative of the Class and Lead Counsel as Class Counsel.

9. The Court in charge of this case is the United States District Court for the Northern District of California, and the case is known as *Lamartina v. VMware, Inc., et al.*, No. 5:20-cv-02182-EJD (N.D. Cal.). The judge presiding over this case is the Honorable Edward J. Davila, United States District Judge. The entity who is suing is called Lead Plaintiff, and those who are being sued are called defendants. In this case, the Defendants are VMware, Patrick P. Gelsinger, and Zane Rowe.

10. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. The purpose of this Notice is to inform you of this case, that it is a class action, and how you might be affected. It also informs you of the terms of the proposed Settlement, and of a hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the proposed Settlement, the proposed Plan of Allocation, and the application by Lead Counsel for attorneys’ fees and litigation expenses (the “Settlement Hearing”).

11. The Settlement Hearing will be held on _____, 2024, at _____ .m., before the Honorable Edward J. Davila, at the United States District Court, Northern District of California, San Jose Courthouse, Courtroom 4—5th Floor, 280 South 1st Street, San Jose, CA 95113, for the following purposes:

- (a) to determine whether the proposed Settlement on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate and should be approved by the Court;
- (b) to determine whether the Judgment as provided for under the Stipulation should be entered;
- (c) to determine whether the proposed Plan of Allocation for the net proceeds of the Settlement is fair and reasonable and should be approved by the Court;
- (d) to determine whether the application by Lead Counsel for an award of attorneys’ fees and litigation expenses and an award to Lead Plaintiff should be approved;

1 and

2 (e) to rule upon such other matters as the Court may deem appropriate.

3 12. This Notice does not express any opinion by the Court concerning the merits of
4 any claim in the Action, and the Court still has to decide whether to approve the Settlement. If the
5 Court approves the Settlement, payments to Authorized Claimants will be made after any appeals
6 are resolved, and after the completion of all claims processing. This process takes time. Please be
7 patient.

8 **WHAT IS THIS CASE ABOUT? WHAT HAS HAPPENED SO FAR?**

9 13. Lead Plaintiff alleges that during the period between August 23, 2018 and
10 February 27, 2020, inclusive, Defendants purportedly made materially false or misleading
11 statements in violation of §10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and
12 Rule 10b 5 promulgated thereunder, which caused the price of VMware Class A common stock to
13 trade at allegedly inflated prices. Specifically, Lead Plaintiff alleges that Defendants purportedly
14 made material misrepresentations and omissions, with scienter, in connection with the Company’s
15 statements with respect to its sales backlog. Lead Plaintiff alleges that persons who purchased
16 VMware Class A common stock during the Class Period allegedly suffered economic losses when
17 the price of VMware Class A common stock declined after the Company reported decreases in
18 sales backlog on certain dates in 2019 and 2020. Defendants have denied and continue to deny
19 each and all of the claims alleged by Lead Plaintiff in the Action and have denied and continued
20 to deny that they engaged in any wrongdoing whatsoever or that persons who purchased VMware
21 Class A common stock during the relevant time period suffered any economic losses as a result of
22 any purported wrongdoing by Defendants.

23 14. The initial complaint in this Action was filed in this Court on March 31, 2020.
24 Lead Plaintiff filed a Consolidated Complaint for Violations of the Federal Securities Laws on
25 September 18, 2020, alleging violations of §§10(b) and 20(a) of the Exchange Act against all
26 Defendants, and alleging a violation of §20A against Defendant Gelsinger. Following briefing on
27 Defendants’ motion to dismiss, the Court granted in part and denied in part Defendants’ motion
28 and granted Lead Plaintiff leave to amend the complaint.

15. On October 8, 2021, Lead Plaintiff filed the Second Amended Consolidated
Complaint for Violations of the Federal Securities Laws (the “Second Amended Complaint”), and
again, Defendants moved for dismissal. Lead Plaintiff filed its opposition to that motion to
dismiss on December 3, 2021.

16. On September 12, 2022, while Defendants’ motion to dismiss the Second
Amended Complaint was pending, the U.S. Securities and Exchange Commission issued an Order
Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933
and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a
Cease-and-Desist Order (the “SEC Order”) against Defendant VMware. The Court thereafter
permitted the Parties to provide additional briefing in light of the SEC Order.

17. On March 14, 2023, Lead Plaintiff filed a Supplemental Memorandum in Further
Opposition to Defendants’ Motion to Dismiss to address the effect of the SEC Order on Lead

1 Plaintiff's allegations. Defendants filed a response on March 21, 2023. Following the
 2 supplemental briefing, the Court held that Lead Plaintiff adequately pled its §§20(a) and 20A
 3 claims, as well as certain of its §10(b) and Rule 10b-5 claims. Pursuant to the Court's order, Lead
 4 Plaintiff filed the Third Amended Complaint on April 6, 2024, alleging misrepresentations and
 5 omissions concerning the Company's backlog and revenue. On April 20, 2023, Defendants filed
 6 their Answer and therein pleaded fourteen (14) affirmative defenses and other defenses to Lead
 7 Plaintiff's claims.

8 18. The Parties thereafter began formal fact discovery, which culminated in the
 9 exchange and review of more than 100,000 documents (encompassing nearly 650,000 pages) from
 10 over a dozen custodians associated with VMware and the production of nearly 25,000 documents
 11 (over 175,000 pages) from 30 third parties subpoenaed to produce documents. Lead Plaintiff took
 12 ten (10) fact witness depositions, and propounded dozens of Requests for Production of
 13 Documents, Requests for Admission, and Interrogatories on Defendants. Lead Plaintiff also
 14 produced documents in response to Defendants' requests.

15 19. On January 16, 2024, Lead Plaintiff moved to certify the Class. Defendants did
 16 not oppose the motion. Following its June 27, 2024 hearing, on July 2, 2024, the Court certified
 17 the Class, appointed Lead Plaintiff as Class Representative, and appointed Robbins Geller as
 18 Class Counsel. At the time the Settlement was achieved, the Parties were in the process of
 19 preparing to exchange expert reports on various issues, including loss causation, damages, and
 20 insider trading, ahead of motions for summary judgment and motions to exclude expert testimony.
 21 A trial setting conference was scheduled to occur on October 31, 2024.

22 20. During the course of the Action, the Parties engaged a neutral, third party mediator,
 23 the Hon. Layn R. Phillips (Ret.) of Phillips ADR, to aid in settlement negotiations. Judge Phillips
 24 has extensive experience mediating complex class action litigations such as this Action. The
 25 Parties engaged in two in-person mediation sessions and numerous teleconferences with Judge
 26 Phillips in an effort to resolve the Action. The Parties also exchanged mediation briefs ahead of
 27 their first in-person mediation session, setting forth their respective arguments concerning liability
 28 and damages and respective views of the merits of the Action. Though the Parties' initial
 mediation session on March 1, 2024 was unsuccessful in resolving the Action, the Parties
 continued to have telephonic and email exchanges with Judge Phillips regarding a potential
 resolution. The Parties and the Court thereafter agreed to a 30-day stay of the Action to allow
 settlement discussions to continue in a good-faith attempt to resolve the Action.

21 21. On July 19, 2024, the Parties attended a remote mediation session with Judge
 22 Phillips. That mediation session paved the way for additional discussions that day between the
 23 Parties, resulting in an agreement in principle to settle the Action for \$102,500,000.00. The
 24 Settlement is pursuant to the terms set forth herein.

25 HOW DO I KNOW IF I AM AFFECTED BY THE SETTLEMENT?

26 22. If you are a member of the Class, you are subject to the Settlement unless you
 27 timely request to be excluded. The Class consists of all persons who purchased the publicly traded
 28 Class A common stock of VMware during the period from August 24, 2018 through February 27,
 2020, inclusive, and were damaged thereby. Excluded from the Class are Individual Defendants and

EX. A-1 – NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION -

5:20-cv-02182-EJD (VKD)

4882-4775-2406.v2

1 their immediate family members. Also excluded from the Class are any persons or entities who
 2 exclude themselves by submitting a request for exclusion in connection with this Notice that is
 accepted by the Court.

3 RECEIPT OF THIS NOTICE DOES NOT NECESSARILY MEAN THAT YOU ARE A
 4 CLASS MEMBER OR THAT YOU ARE ENTITLED TO RECEIVE PROCEEDS
 5 FROM THE SETTLEMENT. IF YOU WISH TO BE POTENTIALLY ELIGIBLE TO
 6 RECEIVE A DISTRIBUTION OF THE SETTLEMENT PROCEEDS, YOU MUST
 7 COMPLETE, SIGN, AND SUBMIT THE CLAIM FORM TO BE RECEIVED NO
 8 LATER THAN [____], 2024. YOU MAY ALSO SUBMIT A CLAIM FORM
 9 ONLINE AT WWW.VMWARESECURITIESLITIGATION.COM BY [____],
 2024.

10 **WHAT ARE LEAD PLAINTIFF'S REASONS FOR THE SETTLEMENT?**

11 23. Lead Plaintiff and Lead Counsel believe that the claims asserted against
 12 Defendants have merit. Lead Plaintiff and Lead Counsel recognize, however, the expense and
 13 length of continued proceedings necessary to pursue their claims against Defendants through trial
 14 and appeals, as well as the difficulties in establishing liability and damages. Lead Plaintiff and
 15 Lead Counsel have considered the amount of the Settlement, as well as the uncertain outcome and
 risk in complex lawsuits like this one. Such risks include, in particular, the risk that the
 anticipated motion(s) for summary judgment and challenges to Lead Plaintiff's experts could be
 granted and the risk, among others, that Lead Plaintiff could be unsuccessful in proving that
 Defendants' alleged misstatements were materially false and misleading, made with scienter (that
 is, the requisite state of mind), or caused compensable damages to the Class.

16 24. In light of the amount of the Settlement and the immediacy of recovery to the
 17 Class, Lead Plaintiff and Lead Counsel believe that the proposed Settlement is fair, reasonable
 18 and adequate, and in the best interests of the Class. Lead Plaintiff and Lead Counsel believe that
 19 the Settlement provides a substantial benefit now, namely \$102.5 million in cash (less the various
 20 deductions described in this Notice), as compared to the risk that the claims would produce a
 smaller recovery, or no recovery after resolution of Defendants' anticipated summary judgment
 motion(s), trial and appeals, possibly years in the future.

21 25. Defendants have denied and continue to deny each and all of the claims alleged by
 22 Lead Plaintiff in the Action. Defendants expressly have denied and continue to deny all charges
 23 of wrongdoing or liability against them arising out of any of the conduct, statements, acts or
 24 omissions alleged, or that could have been alleged, in the Action. Defendants also have denied
 and continue to deny, among other things, the allegations that Lead Plaintiff or the Class have
 suffered any damage, and that Lead Plaintiff or the Class was harmed by the conduct alleged in
 the Action.

25 **WHAT MIGHT HAPPEN IF THERE WERE NO SETTLEMENT?**

26 26. If there were no Settlement and Lead Plaintiff failed to establish any essential legal
 27 or factual element of the alleged claims, neither Lead Plaintiff nor the Class would recover
 28

1 anything from Defendants. Also, if Defendants were successful in proving any of their defenses,
 2 the Class likely would recover substantially less than the amount provided in the Settlement, or
 3 nothing at all.

4 **HOW MUCH WILL MY PAYMENT BE?**

5 27. Defendants have agreed to cause to be paid \$102,500,000.00 in cash into escrow
 6 for the benefit of the Class. At this time, it is not possible to make any determination as to how
 7 much individual Class Members may receive from the Settlement. Lead Plaintiff has proposed a
 8 plan for allocating the Net Settlement Fund to those Class Members who timely submit valid
 9 Proofs of Claim. The Plan of Allocation proposed by Lead Plaintiff is set forth below, and
 10 additional information is available on the case-specific website,
 11 www.VMwareSecuritiesLitigation.com.

12 28. Payment pursuant to the Plan of Allocation shall be conclusive against all
 13 Authorized Claimants. No person or entity shall have any claim based on distributions made
 14 substantially in accordance with the Stipulation and the Settlement contained therein, the Plan of
 15 Allocation, or further order(s) of the Court against Lead Counsel, Lead Plaintiff, Class Members,
 16 the Claims Administrator, Defendants and the other Released Defendants Parties (defined below),
 17 or any person or entity designated by Lead Counsel. All members of the Class who fail to timely
 18 submit an acceptable Claim Form by the deadline set by the Court, or such other deadline as may
 19 be ordered by the Court, or otherwise allowed, shall be forever barred from receiving any
 20 payments pursuant to the Settlement, but will in all other respects be subject to and bound by the
 21 terms of the Settlement, including Class Members' release of all Released Claims.

22 29. The Court has reserved jurisdiction to allow, disallow, or adjust on equitable
 23 grounds the claim of any member of the Class.

24 30. The Plan of Allocation set forth below is the proposed plan submitted by Lead
 25 Plaintiff and Lead Counsel for the Court's approval. The Court may approve this plan as
 26 proposed or it may modify it without further notice to the Class.

27 31. Each claimant shall be deemed to have submitted to the jurisdiction of the United
 28 States District Court for the Northern District of California, with respect to their, his, her, or its
 29 Claim Form.

30 32. Persons and entities that request to exclude themselves from the Class will not be
 31 eligible to receive a distribution from the Net Settlement Fund and shall not submit a Claim Form.

32 **PLAN OF ALLOCATION**

33 33. The Settlement Amount of \$102.5 million and any interest earned thereon shall be
 34 the "Settlement Fund." The Settlement Fund, less all taxes, tax expenses, notice and
 35 administration expenses, approved attorneys' fees and expenses, and any other fees or expenses
 36 approved by the Court is the "Net Settlement Fund." The Net Settlement Fund shall be
 37 distributed to Class Members who submit timely and valid Proofs of Claim to the Claims
 38 Administrator ("Authorized Claimants").

34. The Plan of Allocation set forth herein is the plan that is being proposed by Lead Plaintiff and its counsel to the Court for approval. The Court may approve this Plan of Allocation or modify it without additional notice to the Class. Any order modifying the Plan of Allocation will be posted on the Settlement website at: www.VMwareSecuritiesLitigation.com.

35. The objective of the Plan of Allocation is to equitably distribute the Net Settlement Fund among Authorized Claimants who suffered economic losses as a result of the alleged violations of the federal securities laws during the Class Period (August 24, 2018 through February 27, 2020). To design this Plan, Lead Counsel has conferred with its damages expert. In calculating the estimated alleged artificial inflation allegedly caused by Defendants' alleged misrepresentations and omissions, Lead Plaintiff's damages expert considered the market and industry adjusted price changes in VMware's Class A common stock price following certain corrective disclosures regarding VMware and the allegations in the complaint. The Plan of Allocation, however, is not a formal damages analysis. The allocation below is based on the following inflation per share amounts for Class Period share purchases and sales as well as the statutory 90-day look-back amount of \$124.12 per share of VMware Class A common stock pursuant to the Private Securities Litigation Reform Act.³

36. The Claims Administrator shall determine each Authorized Claimant's *pro rata* share of the Net Settlement Fund based upon each Authorized Claimant's "Recognized Claim." The Recognized Claim formula is not intended to be an estimate of the amount of what a Class Member might have been able to recover after a trial; nor is it an estimate of the amount that will be paid to Authorized Claimants pursuant to the Settlement. Because the Net Settlement Fund is less than the total losses alleged to be suffered by Class Members, the Recognized Claim formula under the Plan of Allocation is only a method to weigh the claims of Authorized Claimants against one another for the purposes of making *pro rata* allocations of the Net Settlement Fund.

37. In order to have recoverable damages, a disclosure of the alleged truth omitted or concealed by the alleged misrepresentations must be the cause of the decline in the price of

³ Under Section 29(D)(e)(1) of the Exchange Act, "in any private action arising under this [Securities Exchange Act of 1934] in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated to the market." Consistent with the requirements of the statute, Recognized Loss Amounts for VMware stock are reduced to an appropriate extent by taking into account the closing prices of VMware stock during the 90-day look-back period. The mean (average) closing price for VMware stock during this 90-day look-back period was \$124.12 per share as shown in Table 2.

1 VMware Class A common stock. In this case, Lead Plaintiff alleges that corrective information
2 was released to the market after the close of trading on May 30, 2019, August 22, 2019, and
February 27, 2020.

3 38. In order to have a “Recognized Claim” under the Plan of Allocation, shares of
4 VMware Class A common stock must have been purchased during the Class Period and held
through the issuance of at least one of the corrective disclosures.

5 CALCULATION OF RECOGNIZED LOSS AMOUNTS

6 39. Based on the formula stated below, a Recognized Claim will be calculated for each
7 purchase of VMware Class A common stock during the Class Period that is listed on the Claim
8 Form and for which adequate documentation is provided. If a Recognized Claim calculates to a
negative number or zero under the formula below, that Recognized Claim will be zero.

9 40. For each share of VMware publicly traded Class A common stock purchased from
10 August 24, 2018 through February 27, 2020, and:

11 (a) sold prior to May 31, 2019, the Recognized Loss Amount will be \$0.00;

12 (b) sold from May 31, 2019 through February 27, 2020, inclusive, the
13 Recognized Loss Amount will be *the lesser of*: (i) the decline in inflation during the holding
period (as presented in Table 1 below); and (ii) the purchase price minus the sale price;

14 (c) sold from February 28, 2020 through and including the close of trading on
15 May 27, 2020, the Recognized Loss Amount will be *the least of*: (i) the decline in inflation during
the holding period (as presented in Table 1 below); (ii) the purchase price minus the sale price; or
16 (iii) the purchase price minus the average closing price between February 28, 2020 and the date of
sale as stated in Table 2 below;

17 (d) held as of the close of trading on May 27, 2020, the Recognized Loss
18 Amount will be *the lesser of*: (i) the decline in inflation during the holding period (as presented in
Table 1 below); or (ii) the purchase price minus \$124.12, the average closing price for VMware
19 stock between February 28, 2020 and May 27, 2020 (the last entry in Table 2 below).

20 ADDITIONAL PROVISIONS

21 41. A claimant’s Recognized Claim under the Plan of Allocation shall be the sum of
22 their, his, her, or its Recognized Loss Amounts.

23 42. For Class Members who held VMware Class A common stock at the beginning of
24 the Class Period or made multiple purchases or sales during the Class Period, the First-In, First-
Out (“FIFO”) method will be applied to such holdings, purchases and sales for purposes of
25 calculating a claim. Under the FIFO method, sales of VMware stock during the Class Period will
be matched, in chronological order, first against VMware stock held at the beginning of the Class
26 Period. The remaining sales of VMware stock during the Class Period will then be matched, in
chronological order, against VMware stock purchased during the Class Period.

27 43. A Class Member will be eligible to receive a distribution from the Net Settlement
28

1 Fund only if a Class Member had a net overall loss, after all profits from transactions in VMware
 2 stock described above during the Class Period are subtracted from all losses. However, the
 3 proceeds from sales of VMware Class A common stock that have been matched against VMware
 4 Class A common stock held at the beginning of the Class Period will not be used in the
 5 calculation of such net loss. The Net Settlement Fund will be distributed to Authorized Claimants
 6 on a *pro rata* basis, based on the relative size of their Recognized Claims. Specifically, a
 7 “Distribution Amount” will be calculated for each Authorized Claimant, which will be the
 8 Authorized Claimant’s Recognized Claim divided by the total Recognized Claims of all
 9 Authorized Claimants, multiplied by the total amount in the Net Settlement Fund. No
 10 distributions will be made to Authorized Claimants who would otherwise receive a distribution of
 11 less than \$10.00.

12 44. If a claimant suffered an overall market loss with respect to their overall
 13 transactions in VMware Class A common stock during the Class Period but that market loss was
 14 less than the claimant’s total Recognized Claim calculated above, then the claimant’s Recognized
 15 Claim will be limited to the amount of the actual market loss. For purposes of determining
 16 whether a claimant had a market gain, or suffered a market loss, with respect to a claimant’s
 17 overall transactions of VMware Class A common stock during the Class Period, the Claims
 18 Administrator will determine the difference between the claimant’s (i) Total Purchase Amount⁴
 19 and (ii) the sum of the Total Sales Proceeds⁵ and Holding Value.⁶

20 45. A purchase or sale of VMware stock shall be deemed to have occurred on the
 21 “contract” or “trade” date as opposed to the “settlement” or “payment” date. All purchase and
 22 sale prices shall exclude any fees and commissions. The receipt or grant by gift, devise, or

23 ⁴ The “Total Purchase Amount” is the total amount the claimant paid (excluding commissions and
 24 other charges) for VMware stock purchased during the Class Period.

25 ⁵ The Claims Administrator will match any sales of VMware Class A common stock from the start
 26 of the Class Period through and including the close of trading on February 27, 2020 first against the
 27 claimant’s opening position (the proceeds of those sales will not be considered for purposes of
 28 calculating market gains or losses). The total amount received (excluding commissions and other
 charges) for the remaining sales of VMware Class A common stock sold from the start of the Class
 Period through and including the close of trading on February 27, 2020 will be the “Total Sales
 Proceeds.”

⁶ The Claims Administrator will ascribe a “Holding Value” equal to \$120.52 for each share of
 VMware stock purchased during the Class Period and still held as of the close of trading
 February 27, 2020.

1 operation of law of VMware stock during the Class Period shall not be deemed a purchase or sale
2 of VMware stock for the calculation of a claimant's recognized claim nor shall it be deemed an
3 assignment of any claim relating to the purchase of such share unless specifically provided in the
4 instrument of gift or assignment. The receipt of VMware stock during the Class Period in
exchange for securities of any other corporation or entity shall not be deemed a purchase of
VMware stock.

5 46. The date of covering a "short sale" is deemed to be the date of purchase of the
6 VMware Class A common stock. The date of a "short sale" is deemed to be the date of sale of
7 VMware stock. Under the Plan of Allocation, however, the Recognized Loss Amount on "short
8 sales" is zero. In the event that a claimant has an opening short position in VMware Class A
common stock, their earliest Class Period purchases of VMware stock will be matched against the
opening short position, and not be entitled to a recovery, until that short position is fully covered.

9 47. Option contracts are not securities eligible to participate in the Settlement. With
10 respect to VMware Class A common stock purchased or sold through the exercise of an option,
11 the purchase/sale date of the common stock is the exercise date of the option and the purchase/sale
price of the common stock is the exercise price of the option.

12 48. After the initial distribution of the Net Settlement Fund, the Claims Administrator
13 shall make reasonable and diligent efforts to have Authorized Claimants cash their distribution
14 checks. To the extent any monies remain in the fund within a reasonable time after the initial
15 distribution, if Lead Counsel, in consultation with the Claims Administrator, determines that it is
16 cost-effective to do so, the Claims Administrator shall conduct a re-distribution of the funds
17 remaining after payment of any unpaid fees and expenses incurred in administering the
18 Settlement, including for such re-distribution, to Authorized Claimants who have cashed their
19 initial distributions. Additional re-distributions to Authorized Claimants who have cashed their
prior checks may occur thereafter if Lead Counsel, in consultation with the Claims Administrator,
determines that additional re-distributions, after the deduction of any additional fees and expenses
incurred in administering the Settlement, including for such re-distributions, would be cost-
effective. At such time as it is determined that the re-distribution of funds remaining in the Net
Settlement Fund is not cost-effective, the remaining balance shall be contributed to Council of
Institutional Investors.

20 49. Payment pursuant to the Plan of Allocation, or such other plan of allocation as may
21 be approved by the Court, shall be conclusive against all Authorized Claimants. No person shall
22 have any claim against Lead Plaintiff, Lead Counsel, Lead Plaintiff's damages expert, or the
23 Claims Administrator or other agent designated by Lead Counsel, or the Released Defendants
24 Parties and/or their respective counsel, arising from distributions made substantially in accordance
25 with the Stipulation, the Plan of Allocation approved by the Court, or further orders of the Court.
26 Lead Plaintiff, and Defendants, their respective counsel, Lead Plaintiff's damages expert, and all
27 other releasees shall have no responsibility or liability whatsoever for the investment or
28 distribution of the Settlement Fund, the Net Settlement Fund, the Plan of Allocation, or the
determination, administration, calculation, or payment of any Claim Form or nonperformance of
the Claims Administrator, the payment or withholding of taxes (including interest and penalties)
owed by the Settlement Fund, or any losses incurred in connection therewith.

TABLE 1**Decline in Inflation Per Share by Date of Purchase and Date of Sale**

Purchase Date	Sale Date			
	8/24/2018 - 5/30/2019	5/31/2019 - 8/22/2019	8/23/2019 - 2/27/2020	Sold on or Retained Beyond 2/28/2020
8/24/2018 - 5/30/2019	\$0.00	\$11.35	\$21.80	\$36.73
5/31/2019 - 8/22/2019		\$0.00	\$10.45	\$25.38
8/23/2019 - 2/27/2020			\$0.00	\$14.93
Purchased on or Beyond 2/28/2020				\$0.00

TABLE 2**VMware Stock Closing Prices and Average Closing Prices**

Average Closing Price Between February 28, 2020 and Date Shown			Average Closing Price Between February 28, 2020 and Date Shown		
Date	Closing Price		Date	Closing Price	
2/28/2020	\$120.52	\$120.52	4/14/2020	\$136.06	\$115.48
3/2/2020	\$121.74	\$121.13	4/15/2020	\$133.54	\$116.02
3/3/2020	\$120.59	\$120.95	4/16/2020	\$135.30	\$116.59
3/4/2020	\$125.57	\$122.11	4/17/2020	\$136.48	\$117.16
3/5/2020	\$121.88	\$122.06	4/20/2020	\$132.62	\$117.59
3/6/2020	\$117.13	\$121.24	4/21/2020	\$124.97	\$117.79
3/9/2020	\$109.45	\$119.55	4/22/2020	\$128.00	\$118.06
3/10/2020	\$113.84	\$118.84	4/23/2020	\$126.42	\$118.27
3/11/2020	\$106.01	\$117.41	4/24/2020	\$128.17	\$118.52
3/12/2020	\$97.85	\$115.46	4/27/2020	\$129.95	\$118.80
3/13/2020	\$107.88	\$114.77	4/28/2020	\$129.63	\$119.06
3/16/2020	\$95.94	\$113.20	4/29/2020	\$134.97	\$119.43
3/17/2020	\$95.84	\$111.86	4/30/2020	\$131.52	\$119.70
3/18/2020	\$93.01	\$110.52	5/1/2020	\$125.34	\$119.83

1	3/19/2020	\$100.19	\$109.83	5/4/2020	\$126.34	\$119.97
	3/20/2020	\$105.72	\$109.57	5/5/2020	\$126.78	\$120.11
2	3/23/2020	\$105.74	\$109.35	5/6/2020	\$126.87	\$120.25
3	3/24/2020	\$112.53	\$109.52	5/7/2020	\$133.30	\$120.52
	3/25/2020	\$116.20	\$109.88	5/8/2020	\$140.31	\$120.92
4	3/26/2020	\$124.72	\$110.62	5/11/2020	\$141.12	\$121.31
	3/27/2020	\$115.74	\$110.86	5/12/2020	\$138.05	\$121.63
5	3/30/2020	\$120.52	\$111.30	5/13/2020	\$134.86	\$121.88
6	3/31/2020	\$121.10	\$111.73	5/14/2020	\$133.82	\$122.10
	4/1/2020	\$116.00	\$111.90	5/15/2020	\$134.48	\$122.33
7	4/2/2020	\$118.20	\$112.16	5/18/2020	\$139.03	\$122.63
8	4/3/2020	\$116.97	\$112.34	5/19/2020	\$139.31	\$122.92
	4/6/2020	\$122.94	\$112.73	5/20/2020	\$140.07	\$123.22
9	4/7/2020	\$123.55	\$113.12	5/21/2020	\$136.56	\$123.44
10	4/8/2020	\$130.46	\$113.72	5/22/2020	\$134.60	\$123.63
	4/9/2020	\$131.43	\$114.31	5/26/2020	\$137.93	\$123.86
11	4/13/2020	\$129.93	\$114.81	5/27/2020	\$139.66	\$124.12

WHAT RIGHTS AM I GIVING UP BY AGREEING TO THE SETTLEMENT?

50. If the Settlement is approved, the Court will enter a judgment (the “Judgment”). The Judgment will dismiss with prejudice the claims against Defendants and will provide that Lead Plaintiff, and all other Released Plaintiff Parties (as defined in ¶54 below) shall have waived, released, discharged, and dismissed each and every one of the Released Claims (as defined in ¶51 below), including Unknown Claims (as defined in ¶55 below), against each and every one of the Released Defendants Parties (as defined in ¶53 below) and shall forever be barred and enjoined from commencing, instituting, prosecuting, or maintaining any and all of the Released Claims against any and all of the Released Defendants Parties, whether or not they execute and deliver the Claim Form or share in the Settlement Fund. Claims to enforce the terms of the Settlement are not released.

51. “Released Claims” means all claims (including, but not limited to, Unknown Claims), demands, losses, rights, and causes of action of any nature whatsoever, that have been or could have been asserted in the Action or could in the future be asserted in any forum, whether foreign or domestic, whether arising under federal, state, common or foreign law, by Lead Plaintiff, any member of the Class, or their successors, assigns, executors, administrators, representatives, attorneys and agents, whether brought directly or indirectly against any of the Released Defendants Parties, which arise out of, are based on, or relate in any way to, directly or indirectly: (i) any of the allegations, acts, transactions, facts, events, matters, occurrences, representations or omissions involved, set forth, alleged or referred to, in the Action, or which could have been alleged in the Action; and (ii) the purchase, acquisition, transfer, holding, ownership, disposition or sale of VMware common stock, by any members of the Class during the Class Period. For the avoidance of doubt, “Released Claims” does not include claims to enforce the Settlement.

52. “Released Defendants’ Claims” means all claims (including, but not limited to,

EX. A-1 – NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION -
5:20-cv-02182-EJD (VKD)
4882-4775-2406.v2

Unknown Claims), demands, losses, rights, and causes of action of any nature whatsoever, that have been or could have been asserted in the Action by the Released Defendants Parties or any of them against any of the Released Plaintiff Parties, which arise out or relate in any way to the institution, prosecution, assertion, settlement, or resolution of the Action (except for claims to enforce the Settlement).

53. “Released Defendants Parties” means: (i) each and all of the Defendants and Broadcom, Inc.; (ii) each of their respective family members (for individuals) and past, present, and future direct and indirect parent entities, subsidiaries, related entities, and affiliates; and (iii) for any of the entities listed in parts (i) and (ii), their respective past and present general partners, limited partners, principals, shareholders, investors (however denominated), joint ventures, members, officers, directors, managers, managing directors, supervisors, employees, contractors, consultants, auditors, accountants, financial advisors, professional advisors, investment bankers, representatives, insurers, trustees, trustors, agents, attorneys, professionals, predecessors, successors, assigns, heirs, executors, administrators, and any controlling person thereof.

54. “Released Plaintiff Parties” means : (i) each and all of the plaintiffs, consisting of Lead Plaintiff and members of the Class; (ii) each of their respective family members, and their respective past, present, and future general partners, limited partners, principals, shareholders, investors (however denominated), joint ventures, members, officers, directors, managers, managing directors, supervisors, employees, contractors, consultants, auditors, accountants, financial advisors, professional advisors, investment bankers, representatives, insurers, trustees, trustors, agents, attorneys, professionals, predecessors, successors, assigns, heirs, executors, administrators, and any controlling person thereof; and (iii) Lead Counsel and other counsel representing Lead Plaintiff and the Class.

55. “Unknown Claims” means any and all Released Claims that Lead Plaintiff or any other Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Defendants Parties, and any and all Released Defendants’ Claims that any Defendant does not know or suspect to exist in his, her or its favor, which if known by him, her, or it, might have affected his, her, or its decision(s) to enter into this Settlement, execute the Stipulation, and agree to all the various releases set forth herein, or might have affected his, her, or its decision(s) not to object to this Settlement or not exclude himself, herself, or itself from the Class. Unknown Claims include, without limitation, those claims in which some or all of the facts composing the claim may be unsuspected, undisclosed, concealed, or hidden. With respect to any and all Released Claims and Released Defendants’ Claims, the Settling Parties stipulate and agree that, upon the Effective Date, Lead Plaintiff and Class Members (as regards the Released Claims) and the Defendants (as regards the Released Defendants’ Claims) shall expressly waive and relinquish, and each Class Member shall be deemed to have and by operation of law and of the Judgment shall have, expressly waived and relinquished, to the fullest extent permitted by law, any and all provisions, rights, and benefits conferred by California Civil Code §1542, or any law of any state or territory of the United States, or principle of common law or of international or foreign law, which is similar, comparable, or equivalent to Cal. Civ. Code §1542, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor

1 or released party.

2 The Settling Parties may hereafter discover facts in addition to or different from those which he,
 3 she, or it now knows or believes to be true with respect to the subject matter of the Released
 4 Claims or Released Defendants' Claims, but such person or entity shall expressly settle and
 5 release, and each Member of the Class, upon the Effective Date, shall be deemed to have, and by
 6 operation of the Judgment shall have, fully, finally, and forever settled and released any and all
 7 Released Claims and Released Defendants' Claims, known or unknown, suspected or
 8 unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist,
 9 or heretofore have existed, upon any theory of law or equity now existing or coming into
 10 existence in the future, including, but not limited to, conduct which is negligent, intentional, with
 11 or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery
 12 or existence of such different or additional facts. Lead Plaintiff and Defendants acknowledge, and
 13 the members of the Class by operation of the Judgment shall be deemed to have acknowledged,
 14 that the waivers contained in this paragraph, and the inclusion of "Unknown Claims" in the
 15 definition of Released Claims and Released Defendants' Claims, were separately bargained for
 16 and are material elements of the Settlement.

17 **WHAT PAYMENT ARE THE ATTORNEYS FOR THE CLASS SEEKING? HOW**
 18 **WILL THE LAWYERS BE PAID?**

19 56. Lead Counsel has not received any payment for its services in pursuing claims
 20 against Defendants on behalf of the Class, nor has Lead Counsel been paid for its expenses.
 21 Before final approval of the Settlement, Lead Counsel intends to apply to the Court for an award
 22 of attorneys' fees from the Settlement Fund of no more than 25% of the Settlement Amount, plus
 23 interest. At the same time, Lead Counsel also intends to apply for payment from the Settlement
 24 Fund for counsel's litigation expenses in a total amount not to exceed \$950,000, plus interest.
 25 The Court will determine the amount of the award of fees and expenses. Such sums as may be
 26 approved by the Court will be paid from the Settlement Fund. Class Members are not personally
 27 liable for any such fees or expenses.

28 **HOW DO I PARTICIPATE IN THE SETTLEMENT?**
WHAT DO I NEED TO DO?

57. If you fall within the definition of the Class as described above and you are not
 excluded by the definition of the Class, and you do not submit a valid and timely request to
 exclude yourself from the Class, then you are a Class Member, and you will be bound by the
 proposed Settlement if the Court approves it, and by any judgment or determination of the Court
 affecting the Class. If you are a Class Member, you must submit a Claim Form and supporting
 documentation to establish your potential entitlement to share in the proceeds of the Settlement.
 You may go to the website maintained by the Claims Administrator for the Settlement to
 download a Claim Form. The website is www.VMwareSecuritiesLitigation.com. You may also
 request a Claim Form by calling toll-free 1-888-298-5840. Those who submit a valid and timely
 request to exclude themselves from the Class, and those who do not submit timely and valid
 Claim Forms with adequate supporting documentation, will not be entitled to share in the
 proceeds of the Settlement unless otherwise ordered by the Court. Please retain all original
 records of your ownership of, or transactions in the shares, as they may be needed to document

1 your claim.

2 58. As a Class Member, for purposes of the Settlement, you are represented by Lead
3 Plaintiff and Lead Counsel, unless you enter an appearance through counsel of your own choice at
4 your own expense. You are not required to retain your own counsel, but if you choose to do so,
such counsel must file a notice of appearance on your behalf.

5 59. If you wish to object to the Settlement or any of its terms, the proposed Plan of
6 Allocation, or Lead Counsel's application for attorneys' fees and litigation expenses, and if you
7 do not exclude yourself from the Class, you may present your objections by following the
8 instructions in the section titled, "When And Where Will The Court Decide Whether To Approve
The Settlement?" below. If you submit a request to exclude yourself from the Class, you are not
entitled to submit an objection.

9 **HOW DO I GET OUT OF THE PROPOSED SETTLEMENT**

10 60. To exclude yourself from the Class, you must send a letter by First-Class Mail
11 stating that you "request exclusion from the Class in the *VMware Securities Litigation*." To be
12 valid, your letter must include the number of shares of VMware Class A common stock purchased
13 during the Class Period and the date of each purchase. In addition, you must include your name,
address, telephone number, and your signature. You must submit your exclusion request so that it
is **received no later than** ____, 2024 to:

14 *VMware Securities Litigation*
15 c/o Gilardi & Co. LLC
16 Claims Administrator
EXCLUSIONS
17 P.O. Box 5100
Larkspur, CA 94977-5100

18 61. If you ask to be excluded, you will not get any payment from the Settlement, and
19 you cannot object to the Settlement. If you exclude yourself, you may not send in a Claim Form
20 to ask for any money. You will not be legally bound by anything that happens in this lawsuit, and
you may be able to sue the Defendants and the other Released Defendants Parties about the
Released Claims in the future.

21 62. Unless you exclude yourself, you give up any rights you may potentially have to
22 sue the Defendants and the other Released Defendants Parties for any and all Released Claims. If
23 you have a pending lawsuit against the Released Defendants Parties, speak to your lawyer in that
24 case immediately. You must exclude yourself from the Class in this Action to continue your own
lawsuit. Remember, the exclusion deadline is ____, 2024.

25 **WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE**
26 **SETTLEMENT?**
27 **DO I HAVE TO COME TO THE HEARING?**
MAY I SPEAK AT THE HEARING IF I DO NOT LIKE THE SETTLEMENT?

28 63. If you do not wish to object in person to the proposed Settlement, the

proposed Plan of Allocation, and/or the application for attorneys' fees and litigation expenses, you do not need to attend the Settlement Hearing. You can object to or participate in the Settlement without attending the Settlement Hearing.

64. The Settlement Hearing will be held on _____, 2024, at _____ .m., before the Honorable Edward J. Davila, at the United States District Court, Northern District of California, San Jose Courthouse, Courtroom 4—5th Floor, 280 South 1st Street, San Jose, CA 95113. The Court reserves the right to approve the Settlement or the Plan of Allocation, Lead Counsel's motion for an award of attorneys' fees and expenses, and/or any other matter related to the Settlement at or after the Settlement Hearing without further notice to the members of the Class.

65. Any Class Member who has not submitted a request for exclusion may object to the Settlement, the Plan of Allocation, or Lead Counsel's request for an award of attorneys' fees and litigation expenses.⁷ You can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

66. Any objection to the proposed Settlement must be in writing. If you file a timely written objection, you may, but are not required to, appear at the Settlement Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. All written objections and supporting papers must: (i) clearly identify the case name and number (*Lamartina v. VMware, Inc., et al.*, No. 5:20-cv-02182-EJD (N.D. Cal.)); (ii) be submitted to the Court either by mailing them to the Clerk of the Court, United States District Court for the Northern District of California, San Jose Courthouse, 280 South 1st Street, San Jose, CA 95113, or by filing them in person at any location of the United States District Court for the Northern District of California; and (iii) be filed or received on or before _____, 2024.

67. The notice of objection must include documentation establishing the objecting Person's membership in the Class, including the number of shares of VMware Class A common stock that the objecting Person: (i) owned as of the opening of trading on August 24, 2018; and (ii) purchased and/or sold during the Class Period, as well as the dates and prices for each such purchase and sale, and contain a statement of reasons for the objection, copies of any papers, briefs, or other documents upon which the objection is based, a statement of whether the objector intends to appear at the Settlement Hearing, and the objector's signature, even if represented by counsel. The objection must state whether it applies only to the objector, to a specific subset of the Class, or to the entire Class. In addition, the objector must identify all class action settlements to which the objector and his, her, or its counsel have previously objected. Documentation establishing membership in the Class must consist of copies of brokerage confirmation slips or monthly brokerage account statements, or an authorized statement from the objector's broker containing the transactional and holding information found in a broker confirmation slip or

⁷ Lead Plaintiff's initial motion papers in support of these matters will be filed with the Court on or before _____, 2024.

1 account statement. Objectors who desire to present evidence at the Settlement Hearing in support
 2 of their objection must include in their written objection or notice of appearance the identity of
 3 any witnesses they may call to testify and any exhibits they intend to introduce into evidence at
 the hearing.

4 68. You may not object to the Settlement or any aspect of it, if you exclude yourself
 5 from the Class.

6 69. You may file a written objection without having to appear at the Settlement
 7 Hearing. You may not appear at the Settlement Hearing to present your objection, however,
 unless you have first filed a written objection in accordance with the procedures described above,
 unless the Court orders otherwise.

8 70. You are not required to hire an attorney to represent you in making written
 9 objections or in appearing at the Settlement Hearing. If you decide to hire an attorney, which will
 be at your own expense, however, he or she must file a notice of appearance with the Court so that
 10 the notice is received on or before ____, 2024.

11 71. The Settlement Hearing may be adjourned by the Court without further written
 12 notice to the Class, other than a posting of the adjournment on the Settlement website,
 www.VMwareSecuritiesLitigation.com. If you plan to attend the Settlement Hearing, you should
 13 confirm the date and time with Lead Counsel.

14 **Unless the Court orders otherwise, any Class Member who does not object in**
 15 **the manner described above will be deemed to have waived any objection and**
 16 **shall be forever foreclosed from making any objection to the proposed**
 17 **Settlement, the proposed Plan of Allocation, or Lead Counsel's request for an**
award of attorneys' fees and litigation expenses. Class Members do not need
to appear at the hearing or take any other action to indicate their approval.

18 **WHAT IF I BOUGHT SHARES ON SOMEONE ELSE'S BEHALF?**

19 72. Nominees who purchased VMware Class A common stock for beneficial owners
 20 who are Class Members are directed to: (i) request within seven (7) calendar days of receipt of the
 21 Postcard Notice sufficient copies of the Postcard Notice from the Claims Administrator to forward
 to all such beneficial owners; or (ii) send a list of the names and addresses (including email
 22 addresses if available) of such beneficial owners to the Claims Administrator within seven (7)
 23 calendar days after receipt of the Postcard Notice. If a nominee elects to send the Postcard Notice
 to beneficial owners, such nominee is directed to email or mail (where an email is unavailable) the
 24 Postcard Notice within seven (7) calendar days of receipt of those documents from the Claims
 Administrator, and upon such emailing or mailing, the nominee shall send a statement to the
 25 Claims Administrator confirming that the emailing or mailing was made as directed, and the
 nominee shall retain the list of names and addresses for use in connection with any possible future
 26 notice to the Class. Upon full compliance with these instructions, including the timely emailing
 or mailing of the Postcard Notice to beneficial owners, such nominees may seek reimbursement of
 27 their reasonable expenses actually incurred in complying with these instructions by providing the
 Claims Administrator with proper documentation supporting the expenses for which
 28 reimbursement is sought and reflecting compliance with these instructions, including timely

1 emailing or mailing of the Postcard Notice, if the nominee elected or elects to do so. Reasonable
 2 out-of-pocket expenses actually incurred in connection with the foregoing includes up to \$0.03 for
 3 providing names, addresses, and email addresses to the Claims Administrator per record; up to a
 4 maximum of \$0.03 per Postcard Notice mailed by you, plus postage at the rate used by the Claims
 5 Administrator; or \$0.03 per notice sent by email. Such properly documented expenses incurred
 6 by nominees in compliance with the terms of these instructions will be paid from the Settlement
 7 Fund. Copies of this Notice may also be obtained by calling toll-free 1-888-298-5840, and may
 8 be downloaded from the Settlement website, www.VMwareSecuritiesLitigation.com.

**CAN I SEE THE COURT FILE?
 WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?**

9 73. This Notice contains only a summary of the terms of the proposed Settlement.
 10 More detailed information about the matters involved in the Action is available at
 11 www.VMwareSecuritiesLitigation.com, including, among other documents, copies of the
 12 Stipulation and Claim Form. This Notice summarizes the proposed Settlement. For the precise
 13 terms and conditions of the Settlement, please see the settlement agreement available at
 14 www.VMwareSecuritiesLitigation.com, or by contacting Lead Counsel below. You may also
 15 access the Court docket in this case, for a fee, through the Court's Public Access to Court
 16 Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of
 17 the Clerk of the Court for the United States District Court for the Northern District of California,
 18 San Jose Courthouse, 280 South 1st Street, San Jose, CA 95113, between 9:00 a.m. and 4:00 p.m.,
 19 Monday through Friday, excluding Court holidays. All inquiries concerning this Notice or the
 20 Claim Form should be directed to:

VMware Securities Litigation
 c/o Gilardi & Co. LLC
 Claims Administrator
 P.O. Box 301170
 Los Angeles, CA 90030-1170
 1-888-298-5840

-or-

Scott H. Saham, Esq.
 ROBBINS GELLER RUDMAN & DOWD LLP
 655 West Broadway, Suite 1900
 San Diego, CA 92101
 1-800-449-4900
settlementinfo@rgrdlaw.com
Lead Counsel

**DO NOT CALL OR WRITE THE COURT, DEFENDANTS, DEFENDANTS'
 COUNSEL, OR THE OFFICE OF THE CLERK OF COURT
 REGARDING THIS NOTICE.**

26 Dated: _____

By Order of the Court
 United States District Court
 Northern District of California

EXHIBIT A-2

ROBBINS GELLER RUDMAN
& DOWD LLP
SHAWN A. WILLIAMS (213113)
Post Montgomery Center
One Montgomery Street, Suite 1800
San Francisco, CA 94104
Telephone: 415/288-4545
415/288-4534 (fax)
shawnw@rgrdlaw.com
– and –
SPENCER A. BURKHOLZ (147029)
LAURIE L. LARGENT (153493)
LAURA ANDRACCHIO (187773)
SCOTT H. SAHAM (188355)
ASHLEY M. KELLY (281597)
TING H. LIU (307747)
STEPHEN JOHNSON (347822)
655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)
spenceb@rgrdlaw.com
llargent@rgrdlaw.com
landracchio@rgrdlaw.com
scottss@rgrdlaw.com
ashleyk@rgrdlaw.com
tliu@rgrdlaw.com
sjohnson@rgrdlaw.com

Lead Counsel for Lead Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM LAMARTINA, Individually and on)
Behalf of All Others Similarly Situated,)
Plaintiff,)
vs.)
VMWARE, INC., et al.,)
Defendants.)

Case No. 5:20-cv-02182-EJD (VKD)

CLASS ACTION

PROOF OF CLAIM AND RELEASE FORM

EXHIBIT A-2

VMware Securities Litigation

c/o Gilardi & Co. LLC

P.O. Box 301170

Los Angeles, CA 90030-1170

Toll-Free Number: 1-888-298-5840

Email: info@VMwareSecuritiesLitigation.com

Website: www.VMwareSecuritiesLitigation.com

PROOF OF CLAIM AND RELEASE

To be eligible to receive a share of the Net Settlement Fund in connection with the Settlement of this Action, you must complete and sign this Proof of Claim and Release Form ("Claim Form") and mail it by first-class mail to the above address, ***received no later than _____, 2024 or submit it online at the above website on or before _____, 2024.***

Failure to submit your Claim Form by the date specified will subject your claim to rejection and may preclude you from being eligible to receive any money in connection with the Settlement.

Do not mail or deliver your Claim Form to the Court, the parties to the Action, or their counsel. Submit your Claim Form only to the Claims Administrator at the address set forth above.

PART I – INSTRUCTIONS

A. GENERAL INSTRUCTIONS

1. This Claim Form is directed to all persons who purchased the publicly traded Class A common stock of VMware, Inc. ("VMware") during the period from August 24, 2018 through February 27, 2020, inclusive (the "Class Period").¹ To recover as a member of the Class based on your claims in the action entitled *Lamartina v. VMware, Inc., et al.*, No. 5:20-cv-02182-EJD (N.D. Cal.) (the "Action"), you must complete and, on page [] hereof, sign this Proof of Claim and Release Form ("Claim Form"). If you fail to submit a properly addressed (as set forth in paragraph 3 below) Claim Form, your claim may be rejected, and you may be precluded from any recovery from the Net Settlement Fund created in connection with the proposed settlement of the Action.

¹ Excluded from the Class are Individual Defendants and their immediate family members. Also excluded from the Class are any persons or entities who exclude themselves by submitting a request for exclusion in connection with the Notice that is accepted by the Court.

2. Submission of this Claim Form, however, does not assure that you will share in the proceeds of settlement in the Action.

3. THE COURT-APPOINTED CLAIMS ADMINISTRATOR IN THIS CASE MUST RECEIVE YOUR COMPLETED AND SIGNED CLAIM FORM, ACCOMPANIED BY COPIES OF THE DOCUMENTS REQUESTED HEREIN, AT THE FOLLOWING ADDRESS OR WEBSITE:

VMware Securities Litigation
c/o Gilardi & Co. LLC
Claims Administrator
P.O. Box 301170
Los Angeles, CA 90030-1170
www.VMwareSecuritiesLitigation.com

YOUR CLAIM FORM MUST BE SUBMITTED ONLINE OR RECEIVED BY MAIL NO LATER THAN _____, 2024.² Do not mail or deliver your Claim Form to the Court, the parties to the Action, or their counsel. Submit your Claim Form only to the Claims Administrator at the address set forth above. If you are NOT a member of the Class, as defined below and in the Notice of Pendency and Proposed Settlement of Class Action (the "Notice"), DO NOT submit a Claim Form.

4. If you are a member of the Class and you do not timely and validly request exclusion from the Class, you are bound by the terms of any judgment entered in the Action, including the releases provided therein, WHETHER OR NOT YOU SUBMIT A CLAIM FORM.

5. It is important that you completely read and understand the Notice that can be found on the Settlement website, www.VMwareSecuritiesLitigation.com, including the Plan of Allocation of the Net Settlement Fund set forth in the Notice. The Notice describes the proposed Settlement, how Class Members are affected by the Settlement, and the manner in which the Net Settlement

² Claim Forms that are legibly postmarked will be treated as received on the postmark date. Please be advised that the U.S. Postal Service may not postmark mail which is not presented in person.

1 Fund will be distributed if the Settlement and Plan of Allocation are approved by the Court. The
2 Notice also contains the definitions of many of the defined terms (which are indicated by initial
3 capital letters) used in this Claim Form. By signing and submitting this Claim Form, you will be
4 certifying that you have read and that you understand the Notice, including the terms of the releases
5 described therein and provided for herein.
6

7 **B. CLAIMANT IDENTIFICATION**

8 1. If you purchased VMware Class A common stock and held the certificate(s) in your
9 name, you are the beneficial purchaser as well as the record purchaser. If, however, the certificate(s)
10 were registered in the name of a third-party, such as a nominee or brokerage firm, you are the
11 beneficial purchaser and the third-party is the record purchaser.

12 2. Use Part II of this form entitled "Claimant Identification" to identify the beneficial
13 owner(s) of VMware Class A common stock. The complete name(s) of the beneficial owner(s) must
14 be entered. If you held the eligible VMware Class A common stock in your own name, you are the
15 beneficial owner as well as the record owner. If, however, your shares of eligible VMware Class A
16 common stock were registered in the name of a third-party, such as a nominee or brokerage firm,
17 you are the beneficial owner of these shares, but the third-party is the record owner. THIS CLAIM
18 MUST BE FILED AND SIGNED BY THE ACTUAL BENEFICIAL PURCHASER(S), OR THE
19 LEGAL REPRESENTATIVE OF SUCH PURCHASER(S) OF VMWARE CLASS A COMMON
20 STOCK UPON WHICH THIS CLAIM IS BASED.
21

22 3. All joint purchasers must sign this Claim Form and be identified in Part II. The
23 Social Security (or taxpayer identification) number and telephone number of the beneficial owner
24 may be used in verifying the claim. Failure to provide the foregoing information could delay
25 verification of your claim or result in rejection of the claim.
26
27
28

1 4. **One Claim should be submitted for each separate legal entity.** Separate Claim
 2 Forms should be submitted for each separate legal entity (*e.g.*, a claim from joint owners should not
 3 include separate transactions of just one of the joint owners, and an individual should not combine
 4 his or her IRA transactions with transactions made solely in the individual's name). Conversely, a
 5 single Claim Form should be submitted on behalf of one legal entity that includes all transactions
 6 made by that entity, no matter how many separate accounts that entity has (*e.g.*, a corporation with
 7 multiple brokerage accounts should include all transactions made in all accounts on one Claim
 8 Form).

10 5. Agents, executors, administrators, guardians, and trustees must complete and sign the
 11 Claim Form on behalf of persons represented by them, and they must:

- 12 (a) expressly state the capacity in which they are acting;
- 13 (b) identify the name, account number, last four digits of the Social Security
 14 Number (or taxpayer identification number), address, and telephone number of the beneficial owner
 15 of (or other person or entity on whose behalf they are acting with respect to) the VMware Class A
 16 common stock; and
- 17 (c) furnish herewith evidence of their authority to bind to the Claim Form the
 18 person or entity on whose behalf they are acting. (Authority to complete and sign a Claim Form
 cannot be established by stockbrokers demonstrating only that they have discretionary authority to
 trade securities in another person's accounts.)

19 6. By submitting a signed Claim Form, you will be swearing that you:

- 20 (a) own or owned the VMware Class A common stock you have listed in the
 21 Claim Form; or
- 22 (b) are expressly authorized to act on behalf of the owner thereof.

23 **C. CLAIM FORM**

24 1. Use Part III of this form entitled "Schedule of Transactions in VMware Class A
 25 Common Stock" to supply all required details of your transaction(s) in VMware Class A common
 26 stock. If you need more space or additional schedules, attach separate sheets giving all of the
 27
 28

1 required information in substantially the same form. Sign and print or type your name on each
2 additional sheet.

3 2. On the schedules, provide all of the requested information with respect to all of your
4 purchases and all of your sales of VMware Class A common stock that took place at any time on or
5 between and including August 24, 2018 through May 27, 2020, whether such transactions resulted in
6 a profit or a loss. Failure to report all such transactions may result in the rejection of your claim.
7 Also, list the number of shares of VMware Class A common stock held at the close of trading on
8 August 23, 2018, February 27, 2020, and May 27, 2020.

10 3. List each transaction in the Class Period separately and in chronological order, by
11 trade date, beginning with the earliest. You must accurately provide the month, day, and year of
12 each transaction you list.

14 4. You are required to submit genuine and sufficient documentation for all of your
15 transactions in and holdings of VMware Class A common stock set forth in the Claim Form.
16 Documentation may consist of copies of brokerage confirmation slips or monthly brokerage account
17 statements, or an authorized statement from your broker containing the transactional and holding
18 information found in a broker confirmation slip or account statement. The parties and the Claims
19 Administrator do not independently have information about your investments in VMware Class A
20 common stock. IF SUCH DOCUMENTS ARE NOT IN YOUR POSSESSION, PLEASE OBTAIN
21 COPIES OF THE DOCUMENTS OR EQUIVALENT DOCUMENTS FROM YOUR BROKER.
22 FAILURE TO SUPPLY THIS DOCUMENTATION MAY RESULT IN THE REJECTION OF
23 YOUR CLAIM. DO NOT SEND ORIGINAL DOCUMENTS. **Please keep a copy of all**
24 **documents that you send to the Claims Administrator. Also, do not highlight any portion of**
25 **the Claim Form or any supporting documents.**
26
27
28

1 5. The above requests are designed to provide the minimum amount of information
2 necessary to process the simplest claims. The Claims Administrator may request additional
3 information as required to efficiently and reliably calculate your recovery. In the event the Claims
4 Administrator cannot perform the calculation accurately or at a reasonable cost to the Class with the
5 information provided, the Claims Administrator may condition acceptance of the claim upon the
6 production of additional information and/or the claimant's responsibility for any increased costs due
7 to the nature and/or scope of the claim.
8

9 6. If the Court approves the Settlement, payments to eligible Authorized Claimants
10 pursuant to the Plan of Allocation (or such other plan of allocation as the Court approves) will be
11 made after any appeals are resolved, and after the completion of all claims processing. The claims
12 process will take substantial time to complete fully and fairly. Please be patient.
13

14 7. **PLEASE NOTE:** As set forth in the Plan of Allocation, each Authorized Claimant
15 shall receive his, her or its *pro rata* share of the Net Settlement Fund, provided any such share is
16 \$10.00 or more. If the prorated payment to any claimant calculates to less than \$10.00, no payment
17 shall be made to that claimant.

18 8. If you have questions concerning the Claim Form, or need additional copies of the
19 Claim Form or the Notice, you may contact the Claims Administrator, Gilardi & Co. LLC, at the
20 address on the first page of the Claim Form, by email at info@VMwareSecuritiesLitigation.com, or
21 by toll-free phone at 1-888-298-5840, or you can visit the website,
22 www.VMwareSecuritiesLitigation.com, where copies of the Claim Form and Notice are available
23 for downloading.
24

25 9. **NOTICE REGARDING ELECTRONIC FILES:** Certain claimants with large
26 numbers of transactions may request, or may be requested, to submit information regarding their
27 transactions in electronic files. To obtain the **mandatory** electronic filing requirements and file
28

layout, you may visit the Settlement website at www.VMwareSecuritiesLitigation.com or you may email the Claims Administrator's electronic filing department at info@VMwareSecuritiesLitigation.com. **Any file not in accordance with the required electronic filing format will be subject to rejection.** Only one claim should be submitted for each separate legal entity (*see* ¶B.4 above) and the ***complete*** name of the beneficial owner(s) of the securities must be entered where called for (*see* ¶B.2 above). **No electronic files will be considered to have been submitted unless the Claims Administrator issues an email to that effect. Do not assume that your file has been received until you receive this email. If you do not receive such an email within 10 days of your submission, you should contact the electronic filing department at info@VMwareSecuritiesLitigation.com to inquire about your file and confirm it was received.**

PART II: CLAIMANT IDENTIFICATION

Beneficial Owner's Name (First, Middle, Last)

Joint Beneficial Owner's Name (if applicable) (First, Middle, Last)

Name of Representative, if applicable (executor, administrator, trustee, c/o, etc.), if different from Beneficial Owner

Street Address

City

State or Province

Zip Code or Postal Code

Country

Last Four Digits of Social Security Number
or
Taxpayer Identification Number

Individual
Corporation/Other

Area Code Telephone Number (work)

Area Code Telephone Number (home)

Email Address: _____

Record Owner's Name (if different from beneficial owner listed above)

**PART III: SCHEDULE OF TRANSACTIONS IN VMWARE CLASS A
COMMON STOCK**

Please be sure to include proper documentation with your Claim Form as described in detail in ¶C.4 of the Instructions. Do not include information regarding securities other than VMware Class A common stock.

A. Number of shares of VMware Class A common stock held at the close of trading on August 23, 2018. (Must be documented.) If none, write "zero":

B. Purchases of VMware Class A common stock (August 24, 2018 through May 27, 2020, inclusive) (Must be documented.):

Date of Purchase (Trade Date) Mo. / Day / Year	Number of Shares Purchased	Total Purchase Price (excluding any taxes, commissions, and fees)
/ /		\$
/ /		\$
/ /		\$
/ /		\$

IMPORTANT: If any purchase listed covered a "short sale," please mark Yes: ☐ Yes

C. Sales of VMware Class A common stock (August 24, 2018 through May 27, 2020, inclusive) (Must be documented.):

Trade Date Mo. / Day / Year	Number of Shares Sold	Total Sales Price (not deducting any taxes, commissions, and fees)
/ /		\$
/ /		\$
/ /		\$
/ /		\$

1 D. Number of shares of VMware Class A common stock held at the close of
trading on February 27, 2020. (Must be documented.) If none, write "zero":

2 _____
3 E. Number of shares of VMware Class A common stock held at the close of
trading on May 27, 2020. (Must be documented.) If none, write "zero":

4 _____.

5 If you require additional space, attach extra schedules in the same format as above. Sign and
6 print your name on each additional page.

7 **YOU MUST READ AND SIGN THE RELEASE ON PAGE __. FAILURE TO SIGN**
8 **THE RELEASE MAY RESULT IN A DELAY IN PROCESSING OR THE REJECTION OF**
9 **YOUR CLAIM.**

10 **PART IV – SUBMISSION TO JURISDICTION OF COURT AND**
11 **ACKNOWLEDGMENTS**

12 I (We) submit this Claim Form under the terms of the Stipulation of Settlement dated
13 October 4, 2024 ("Stipulation") described in the Notice. I (We) also submit to the jurisdiction of the
14 United States District Court for the Northern District of California with respect to my (our) claim as
15 a Class Member (as defined in the Notice) and for purposes of enforcing the release set forth herein.
16 I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment
17 that may be entered in the Action. I (We) agree to furnish additional information to Lead Counsel
18 and/or the Claims Administrator to support this claim if required to do so. I (We) have not submitted
19 any other claim covering the same purchases or sales of VMware Class A common stock during the
20 Class Period and know of no other Person having done so on my (our) behalf.

21 **PART V – RELEASE**

22 1. I (We) hereby acknowledge full and complete satisfaction of, and do hereby fully,
23 finally and forever settle, release, relinquish, and discharge all of the Released Claims (including
24 Unknown Claims) against each and all of the Released Defendants Parties, all as defined herein and
25 in the Notice and Stipulation.

26 2. This release shall be of no force or effect unless and until the Court approves the
27 Stipulation and it becomes effective on the Effective Date.
28

3. I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof and have not submitted any other claim covering the same purchases of VMware Class A common stock and know of no other person having done so on my (our) behalf.

4. I (We) hereby warrant and represent that I (we) have included all requested information about all of my (our) purchases of VMware Class A common stock during the Class Period, as well as the number of shares held at the close of trading on August 23, 2018, February 27, 2020, and May 27, 2020.

5. The number(s) shown on this form is (are) the correct SSN/TIN(s).

6. I (We) waive the right to trial by jury, to the extent it exists, and agree to the determination by the Court of the validity or amount of this claim, and waive any right of appeal or review with respect to such determination.

7. I (We) certify that I am (we are) NOT subject to backup withholding under the provisions of §3406(a)(1)(C) of the Internal Revenue Code.

(NOTE: If you have been notified by the Internal Revenue Service that you are subject to backup withholding, you must cross out Item 7 above.)

I (We) declare under penalty of perjury under the laws of the United States of America that the foregoing information supplied by the undersigned is true and correct.

Executed this _____ day of _____, 20____,

(Month/Year)

in _____, _____.

(City) (State/Country)

(Sign your name here)

(Type or print your name here)

(Capacity of person(s) signing, *e.g.*,
Beneficial Purchaser,
Executor or Administrator)

For Joint Beneficial Purchaser, if any:

(Sign your name here)

(Type or print your name here)

ACCURATE CLAIMS PROCESSING TAKES A
SIGNIFICANT AMOUNT OF TIME.
THANK YOU FOR YOUR PATIENCE.

Reminder Checklist:

1. Please sign the above release and acknowledgment.
2. Remember to attach copies of supporting documentation.
3. Do not send original stock certificates. Attach only ***copies*** of acceptable supporting documentation as these documents will not be returned to you.
4. Keep a copy of your Claim Form and all supporting documentation for your records.
5. If you move, please send us your new address.
6. If you have any questions or concerns regarding your claim, contact the Claims Administrator at *VMware Securities Litigation*, c/o Gilardi & Co. LLC, P.O. Box 301170, Los Angeles, CA 90030-1170, by email at info@VMwareSecuritiesLitigation.com, or by toll-free phone at 1-888-298-5840, or you may visit www.VMwareSecuritiesLitigation.com. DO NOT call VMware, the other Defendants, or their counsel with questions regarding your claim.

EXHIBIT A-3

ROBBINS GELLER RUDMAN
& DOWD LLP
SHAWN A. WILLIAMS (213113)
Post Montgomery Center
One Montgomery Street, Suite 1800
San Francisco, CA 94104
Telephone: 415/288-4545
415/288-4534 (fax)
shawnw@rgrdlaw.com
– and –
SPENCER A. BURKHOLZ (147029)
LAURIE L. LARGENT (153493)
LAURA ANDRACCHIO (187773)
SCOTT H. SAHAM (188355)
ASHLEY M. KELLY (281597)
TING H. LIU (307747)
STEPHEN JOHNSON (347822)
655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)
spenceb@rgrdlaw.com
llargent@rgrdlaw.com
landracchio@rgrdlaw.com
scotts@rgrdlaw.com
ashleyk@rgrdlaw.com
tliu@rgrdlaw.com
sjohnson@rgrdlaw.com

Lead Counsel for Lead Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM LAMARTINA, Individually and on)
Behalf of All Others Similarly Situated,)
Plaintiff,)
vs.)
VMWARE, INC., et al.,)
Defendants.)

Case No. 5:20-cv-02182-EJD (VKD)

CLASS ACTION

SUMMARY NOTICE

EXHIBIT A-3

1 ***IF YOU PURCHASED VMWARE, INC. (“VMWARE”) CLASS A COMMON STOCK DURING***
2 ***THE PERIOD FROM AUGUST 24, 2018 THROUGH FEBRUARY 27, 2020, INCLUSIVE (THE***
3 ***“CLASS PERIOD”), YOU COULD RECEIVE A PAYMENT FROM A CLASS ACTION***
SETTLEMENT. CERTAIN PERSONS ARE EXCLUDED FROM THE DEFINITION OF THE
CLASS AS SET FORTH IN THE STIPULATION OF SETTLEMENT.

4 PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED
5 BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT.

6 YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil
7 Procedure and Order of the United States District Court for the Northern District of California, that
8 in the above-captioned litigation (the “Action”), a Settlement has been proposed for \$102,500,000.00
9 in cash. A hearing will be held on _____, 2024, at __:__ .m., before the Honorable
10 Edward J. Davila, at the United States District Court, Northern District of California, San Jose
11 Courthouse, Courtroom 4 – 5th Floor, 280 South 1st Street, San Jose, CA 95113, for the purpose of
12 determining whether: (i) the proposed Settlement should be approved by the Court as fair,
13 reasonable, and adequate; (ii) the proposed Plan of Allocation for distribution of the Settlement
14 proceeds is fair, reasonable, and adequate and therefore should be approved; and (iii) the application
15 of Lead Counsel for the payment of attorneys’ fees and expenses from the Settlement Fund,
16 including interest earned thereon, and award to Lead Plaintiff should be granted.

17 **IF YOU ARE A MEMBER OF THE CLASS DESCRIBED ABOVE, YOUR RIGHTS**
18 **MAY BE AFFECTED BY THE SETTLEMENT OF THE LITIGATION, AND YOU MAY**
19 **BE ENTITLED TO SHARE IN THE NET SETTLEMENT FUND.** You may obtain a copy of
20 the Stipulation of Settlement, the Notice of Pendency and Proposed Settlement of Class Action (the
21 “Notice”), and the Proof of Claim and Release Form (“Proof of Claim”) at
22 www.VMwareSecuritiesLitigation.com or by contacting the Claims Administrator: *VMware*
23 *Securities Litigation*, c/o Gilardi & Co. LLC, P.O. Box 301170, Los Angeles, CA 90030-1170; 1-
24 888-298-5840.

25 If you are a Class Member, to be eligible to share in the distribution of the Net Settlement
26 Fund, you must submit a Proof of Claim by mail received no later than _____, 2024, or
27
28

1 submit it online by that date.¹ If you are a Class Member and do not submit a valid Proof of Claim,
 2 you will not be eligible to share in the distribution of the Net Settlement Fund, but you will still be
 3 bound by any judgment entered by the Court in this Action (including the releases provided for
 4 therein).

5 To exclude yourself from the Class, you must mail a written request for exclusion such that it
 6 is **received by ____**, **2024**, in the manner and form explained in the Notice. If you are a Class
 7 Member and have not excluded yourself from the Class, you will be bound by any judgment entered
 8 by the Court in this Action (including the releases provided for therein) whether or not you submit a
 9 Proof of Claim. If you submitted a valid request for exclusion, you will have no right to recover
 10 money pursuant to the Settlement.

11 Any objection to the proposed Settlement, the Plan of Allocation, or the fee and expense
 12 application must be filed with the Court no later than _____, 2024.

13 **PLEASE DO NOT CONTACT THE COURT, THE CLERK'S OFFICE,**
 14 **DEFENDANTS, OR DEFENDANTS' COUNSEL REGARDING THIS NOTICE.** If you have
 15 any questions about the Settlement, or your eligibility to participate in the Settlement, you may
 16 contact Lead Counsel at the following address or by calling 1-800-449-4900:

17
 18 ROBBINS GELLER RUDMAN
 & DOWD LLP
 19 SCOTT H. SAHAM
 655 West Broadway, Suite 1900
 20 San Diego, CA 92101
 settlementinfo@rgrdlaw.com

21 DATED: _____

22 BY ORDER OF THE COURT
 UNITED STATES DISTRICT COURT
 23 NORTHERN DISTRICT OF CALIFORNIA
 24

25 ¹ Proofs of Claim, requests for exclusion, and objections that are legibly postmarked will be
 26 treated as received on the postmark date. Please be advised that the U.S. Postal Service may not
 27 postmark mail which is not presented in person.
 28

EXHIBIT A-4

LEGAL NOTICE

Lamartina v. VMware, Inc., et al.,
No. 5:20-cv-02182-EJD (N.D. Cal.)
c/o Gilardi & Co. LLC
P.O. Box 301170
Los Angeles, CA 90030-1170

www.VMwareSecuritiesLitigation.com

Court-Ordered Legal Notice
(Forwarding Service Requested)

This notice contains important information about a securities class action settlement.

You may be entitled to a payment. This notice may affect your legal rights.

Please read this notice carefully.

Lamartina v. VMware, Inc.,

No. 5:20-cv-02182-EJD (N.D. Cal.)

THIS CARD PROVIDES ONLY LIMITED INFORMATION ABOUT THE SETTLEMENT.

VISIT WWW.VMWARESECURITIESLITIGATION.COM OR CALL 1-888-298-5840 FOR MORE INFORMATION.

If you purchased VMware, Inc. (n/k/a VMware, LLC) (“VMware” or the “Company”) Class A common stock from August 24, 2018 through February 27, 2020, inclusive, you could be entitled to a payment from a proposed settlement (“Settlement”) reached in this action (“Action”). Your rights may be affected by this Action and the Settlement. A hearing will be held on _____, 2024 at _____ before the Honorable Edward J. Davila at the United States District Court for the Northern District of California, Courtroom 4 – 5th Floor, 280 South 1st Street, San Jose, CA 95113 to determine whether the proposed settlement of the Action against Defendants VMware, Patrick P. Gelsinger, and Zane Rowe for \$102.5 million and the Plan of Allocation should be approved as fair, reasonable, and adequate; whether the Action should be dismissed with prejudice against the Defendants, as set forth in the Stipulation of Settlement (“Stipulation”) filed with the Court; and whether Lead Counsel’s application for an award of attorneys’ fees of up to 25% of the Settlement Amount, plus interest, and expenses not to exceed \$950,000, plus interest, and award to Lead Plaintiff, should be granted.

The proposed Settlement would resolve a class action lawsuit alleging that, in violation of the U.S. federal laws, Defendants purportedly made material misrepresentations and omissions, with scienter, in connection with the Company’s statements with respect to sales backlog. Defendants have denied and continue to deny each and all of the claims alleged by Lead Plaintiff in the Action and have denied and continued to deny that they engaged in any wrongdoing whatsoever or that persons who purchased VMware Class A common stock during the relevant time period suffered any economic losses as a result of any purported wrongdoing by Defendants. For a full description of the Settlement and your rights and to make a claim, you may obtain the Stipulation, long-form Notice of Pendency and Proposed Settlement of Class Action, and the Proof of Claim and Release Form (“Claim Form”) by visiting the website: www.VMwareSecuritiesLitigation.com (“Website”) or you may request copies from the Claims Administrator by: (i) mail: *VMware Securities Litigation*, c/o Gilardi & Co. LLC, P.O. Box 301170, Los Angeles, CA 90030-1170; or (ii) call toll-free call: 1-888-298-5840.

To qualify for payment, you must submit a valid Claim Form, with supporting documentation, received no later than _____, 2024. You will be bound by any Judgment entered in the Action, regardless of whether you submit a Claim Form, unless you exclude yourself from the Class. If you exclude yourself from the Class, you cannot get money from this Settlement. If you do not exclude yourself and stay in the Class, you may object to the Settlement, Plan of Allocation, and/or the request for an award of attorneys’ fees and expenses and award to Lead Plaintiff no later than _____, 2024. The long-form Notice and the Website explain how to exclude yourself from the Class or how to object.

Lead Plaintiff and the Class are represented by Lead Counsel: Scott H. Saham, Robbins Geller Rudman & Dowd LLP, 655 W. Broadway, Suite 1900, San Diego, CA 92101, 1-800-449-4900, settlementinfo@rgrdlaw.com. You may, but do not have to, attend the Court hearing to be heard. The Court reserves the right to hold the Settlement Hearing telephonically or by other virtual means and/or change its date and/or time. Please check the Website for updates.

EXHIBIT B

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM LAMARTINA, Individually and on)
Behalf of All Others Similarly Situated,)
)
Plaintiff,)
)
vs.)
)
VMWARE, INC., et al.,)
)
Defendants.)

Case No. 5:20-cv-02182-EJD (VKD)
CLASS ACTION
[PROPOSED] FINAL JUDGMENT AND
ORDER OF DISMISSAL WITH PREJUDICE
EXHIBIT B

1 This matter came before the Court for hearing pursuant to the Order of this Court, dated
2 _____, on the application of the Settling Parties for approval of the Settlement set forth in
3 the Stipulation of Settlement dated October 4, 2024 (the “Stipulation”). Due and adequate notice
4 having been given to the Class as required in the Order, the Court having considered all papers filed
5 and proceedings held herein and otherwise being fully informed in the premises and good cause
6 appearing therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

7 1. This Judgment incorporates by reference the definitions in the Stipulation, and all
8 capitalized terms used herein shall have the same meanings as set forth in the Stipulation, unless
9 otherwise stated herein.

10 2. This Court has jurisdiction over the subject matter of the Action and over all parties to
11 the Action, including all members of the Class.

12 3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Class includes all
13 persons who purchased the publicly traded Class A common stock of VMware during the period
14 from August 24, 2018 through February 27, 2020, inclusive (the “Class Period”), and were damaged
15 thereby. Excluded from the Class are Individual Defendants and their immediate family members.
16 Also excluded from the Class are any persons or entities who excluded themselves by submitting a
17 request for exclusion in connection with the Notice that is accepted by the Court.

18 4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby
19 approves the Settlement set forth in the Stipulation and finds that:

20 (a) in light of the benefits to the Class and the complexity and expense of further
21 litigation, the Stipulation and the Settlement contained therein are, in all respects, fair, reasonable,
22 and adequate;

23 (b) there was no collusion in connection with the Stipulation;

24 (c) Lead Plaintiff and Lead Counsel have adequately represented the Class;

25 (d) the Stipulation was the product of informed, arm’s-length negotiations among
26 competent, able counsel;

27 (e) the relief provided for the Class is adequate, having taken into account: (i) the
28 costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of

1 distributing relief to the Class, including the method of processing Class Member's claims; (iii) the
2 terms of any proposed award of attorneys' fees, including timing of payment; and (iv) any agreement
3 required to be identified under Federal Rule of Civil Procedure 23(e)(3);

4 (f) the proposed Plan of Allocation treats Class Members equitably relative to
5 each other; and

6 (g) the record is sufficiently developed and complete to have enabled Lead
7 Plaintiff and Defendants to have adequately evaluated and considered their positions.

8 5. Accordingly, the Court authorizes and directs implementation and performance of all
9 the terms and provisions of the Stipulation, as well as the terms and provisions hereof. Except as to
10 any individual claim of those Persons who have validly and timely requested exclusion from the
11 Class (identified in Exhibit A hereto), the Action and all claims contained therein are dismissed with
12 prejudice as to the Lead Plaintiff and the other Class Members, and as against each and all of the
13 Released Defendants Parties. The Settling Parties are to bear their own costs except as otherwise
14 provided in the Stipulation.

15 6. No Person shall have any claim against Lead Plaintiff, Lead Counsel, or the Claims
16 Administrator, or any other Person designated by Lead Counsel based on determinations or
17 distributions made substantially in accordance with the Stipulation and the Settlement contained
18 therein, the Plan of Allocation, or further order(s) of the Court.

19 7. Upon the Effective Date, Lead Plaintiff, and each of the Class Members (whether or
20 not such Class Members execute and deliver a Proof of Claim, but excluding Class Members who
21 have validly opted out of the Class), on behalf of themselves, and each of their respective heirs,
22 executors, administrators, predecessors, successors, assigns, parents, subsidiaries, affiliates, officers,
23 directors, agents, fiduciaries, beneficiaries or legal representatives, in their capacities as such, and
24 any other Person or entity legally entitled to bring Released Claims on behalf of a Class Member, in
25 that capacity, shall be deemed to have, and by operation of this Judgment shall have, fully, finally,
26 and forever compromised, settled, resolved, waived, released, discharged, and dismissed each and
27 every one of the Released Claims (including, without limitation, Unknown Claims) against each and
28 every one of the Released Defendants Parties with prejudice on the merits, whether or not the Lead

1 Plaintiff, or such Class Member executes and delivers the Proof of Claim and whether or not the
2 Lead Plaintiff, or each of the Class Members ever seeks or obtains any distribution from the
3 Settlement Fund. Claims to enforce the terms of the Stipulation are not released.

4 8. Upon the Effective Date, Defendants shall be deemed to have, and by operation of
5 this Judgment shall have, fully, finally, and forever waived, released, discharged, and dismissed the
6 Released Plaintiff Parties from all Released Defendants' Claims (including, without limitation,
7 Unknown Claims). For the avoidance of doubt, the releases, relinquishments, and discharges
8 provided by the Released Defendants Parties in the Stipulation do not include the release,
9 relinquishment, or discharge of any claim or cause of action that any of the Released Defendants
10 Parties may have against an insurer or reinsurer for, arising out of or related to insurance coverage
11 for, arising out of or related to the Action or any related matter or proceeding, including any
12 derivative action based on similar allegations. Claims to enforce the terms of the Stipulation are not
13 released.

14 9. Upon the Effective Date, Lead Plaintiff and each of the Class Members (who have not
15 opted out of the Class), and their successors, assigns, executors, administrators, representatives,
16 attorneys, and agents in their capacities as such shall be permanently barred and enjoined from the
17 institution, maintenance, prosecution, or enforcement against any Released Defendants Parties, in
18 any state or federal court or arbitral forum, or in the court of any foreign jurisdiction, of any and all
19 Released Claims (including, without limitation, Unknown Claims).

20 10. The distribution of the Postcard Notice by email and mail (where no email was
21 available), online posting of the Notice and Proof of Claim and Release Form, and publication of the
22 Summary Notice as provided for in the Preliminary Approval Order constituted the best notice
23 practicable under the circumstances, including individual notice to Class Members who could be
24 identified through reasonable effort. The notice provided was the best notice practicable under the
25 circumstances of those proceedings and of the matters set forth therein, including the proposed
26 Settlement set forth in the Stipulation, to all Persons entitled to such notice, and said notice fully
27 satisfied the requirements of Federal Rule of Civil Procedure 23, due process and any other
28 applicable law, including the Private Securities Litigation Reform Act of 1995. No Class Member is

1 relieved from the terms of the Settlement, including the releases provided for therein, based upon the
2 contention or proof that such Class Member failed to receive actual or adequate notice. A full
3 opportunity has been offered to the Class Members to object to the proposed Settlement and to
4 participate in the hearing thereon. The Court further finds that the notice provisions of the Class
5 Action Fairness Act, 28 U.S.C. §1715, were fully discharged and that the statutory waiting period
6 has elapsed. Thus, it is hereby determined that all members of the Class are bound by this Judgment,
7 except those persons listed on Exhibit A to this Judgment.

8 11. Any Plan of Allocation submitted by Lead Counsel or any order entered regarding
9 any attorneys' fee and expense application shall in no way disturb or affect this Judgment and shall
10 be considered separate from this Judgment. Any order or proceeding relating to the Plan of
11 Allocation or any order entered regarding any attorneys' fee and expense application, or any appeal
12 from any order relating thereto or reversal or modification thereof, shall not affect or delay the
13 finality of the Final Judgment in this Action.

14 12. Defendants have denied, and continue to deny, any and all allegations and claims
15 asserted in the Action, and Defendants have represented that they entered into the Settlement
16 because it would be beneficial to avoid the burden, inconvenience, and expense associated with
17 continuing the Action and the uncertainty and risks inherent in any litigation. Neither the Stipulation
18 nor the Settlement contained therein, nor this Order and Final Judgment, nor any act performed or
19 document executed pursuant to or in furtherance of the Stipulation or the Settlement, shall be:

20 (a) offered or received against any of the Released Parties as evidence of, or
21 construed as evidence of, any presumption, concession, or admission by any of the Released Parties
22 with respect to the truth of any of the allegations in the Action or the validity of any claim that has
23 been or could have been asserted against any of the Released Parties in the Action or in any other
24 litigation, action, or proceeding, whether civil, criminal, or administrative, in any court,
25 administrative agency, or other tribunal, or the deficiency of any defense that has been or could have
26 been asserted in the Action or in any other litigation, action, or proceeding, whether civil, criminal,
27 or administrative in any court, administrative agency, or other tribunal, or of any liability,
28 negligence, fault, or other wrongdoing of any kind by the Released Parties ;

1 (b) offered or received against any of the Released Parties as evidence of, or
2 construed as evidence of, any presumption, concessions, or admission of any fault,
3 misrepresentation, or omission with respect to any statement or written document approved or made
4 by any of the Released Parties, or against Lead Plaintiff or any Member of the Class as evidence of,
5 or construed as evidence of, any infirmity of the claims alleged by Lead Plaintiff;

6 (c) offered or received against the Released Parties, Lead Plaintiff, or any
7 Member of the Class as evidence of, any presumption, concession, or admission by any of the
8 Released Parties, Lead Plaintiff, or any Member of the Class with respect to any liability, negligence,
9 fault, or wrongdoing as against any of the Released Parties, Lead Plaintiff, or any Member of the
10 Class in any other litigation, action, or proceeding, whether civil, criminal, or administrative, in any
11 court, administrative agency, or other tribunal, other than such proceedings as may be necessary to
12 effectuate the provisions of the Stipulation or this Order and Final Judgment; provided, however,
13 that the Released Parties, Lead Plaintiff, and any Member of the Class may refer to them to
14 effectuate the liability protection granted them hereunder;

15 (d) offered or received against any of the Released Parties as evidence of, or
16 construed as evidence of, any presumption, concession, or admission by any of the Released Parties
17 that the Settlement Amount represents the amount which could or would have been recovered after
18 trial; or

19 (e) offered or received against Lead Plaintiff or any Member of the Class as
20 evidence of, or construed as evidence of, any presumption, concession, or admission by Lead
21 Plaintiff or any Member of the Class that any of their claims are without merit, or that any defenses
22 asserted by the Defendants in the Action have any merit, or that damages recoverable in the Action
23 would not have exceeded the Settlement Fund.

24 13. The Released Defendants Parties may file the Stipulation and/or this Judgment in any
25 other action that may be brought against them in order to support a defense or counterclaim based on
26 principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or
27 reduction, or any other theory of claim preclusion or issue preclusion or similar defense or
28 counterclaim.

1 14. The Court finds that Defendants' financial obligations under the Stipulation have
2 been satisfied through the payment of \$102,500,000.00 to the Settlement Fund, in accordance with
3 the Stipulation.

4 15. Without affecting the finality of this Judgment in any way, this Court hereby retains
5 continuing jurisdiction over: (i) implementation of the Settlement and any award or distribution of
6 the Settlement Fund, including interest earned thereon; (ii) disposition of the Settlement Fund; (iii)
7 hearing and determining applications for attorneys' fees and expenses in the Action; and (iv) all
8 parties hereto for the purpose of construing, enforcing, and administering the Settlement.

9 16. The Court finds that during the course of the Action, the Settling Parties and their
10 respective counsel at all times complied with the requirements of Rule 11 of the Federal Rules of
11 Civil Procedure.

12 17. In the event that the Settlement does not become effective in accordance with the
13 terms of the Stipulation, or the Effective Date does not occur, then this Judgment shall be rendered
14 null and void to the extent provided by and in accordance with the Stipulation and shall be vacated;
15 and in such event, all orders entered and releases delivered in connection herewith shall be null and
16 void to the extent provided by and in accordance with the Stipulation.

17 18. The Settling Parties shall bear their own costs and expenses except as otherwise
18 provided in the Stipulation or in this Judgment.

19 19. Without further order of the Court, the Settling Parties may agree to reasonable
20 extensions of time to carry out any of the provisions of the Stipulation.

21 20. The Court directs immediate entry of this Judgment by the Clerk of the Court.

22 21. The Court's orders entered during this Action relating to the confidentiality of
23 information shall survive this Settlement [pursuant to the Stipulated Protective Order entered in this
24 Action (ECF 99)].

25 IT IS SO ORDERED.

26 DATED: _____

THE HONORABLE EDWARD J. DAVILA
UNITED STATES DISTRICT JUDGE